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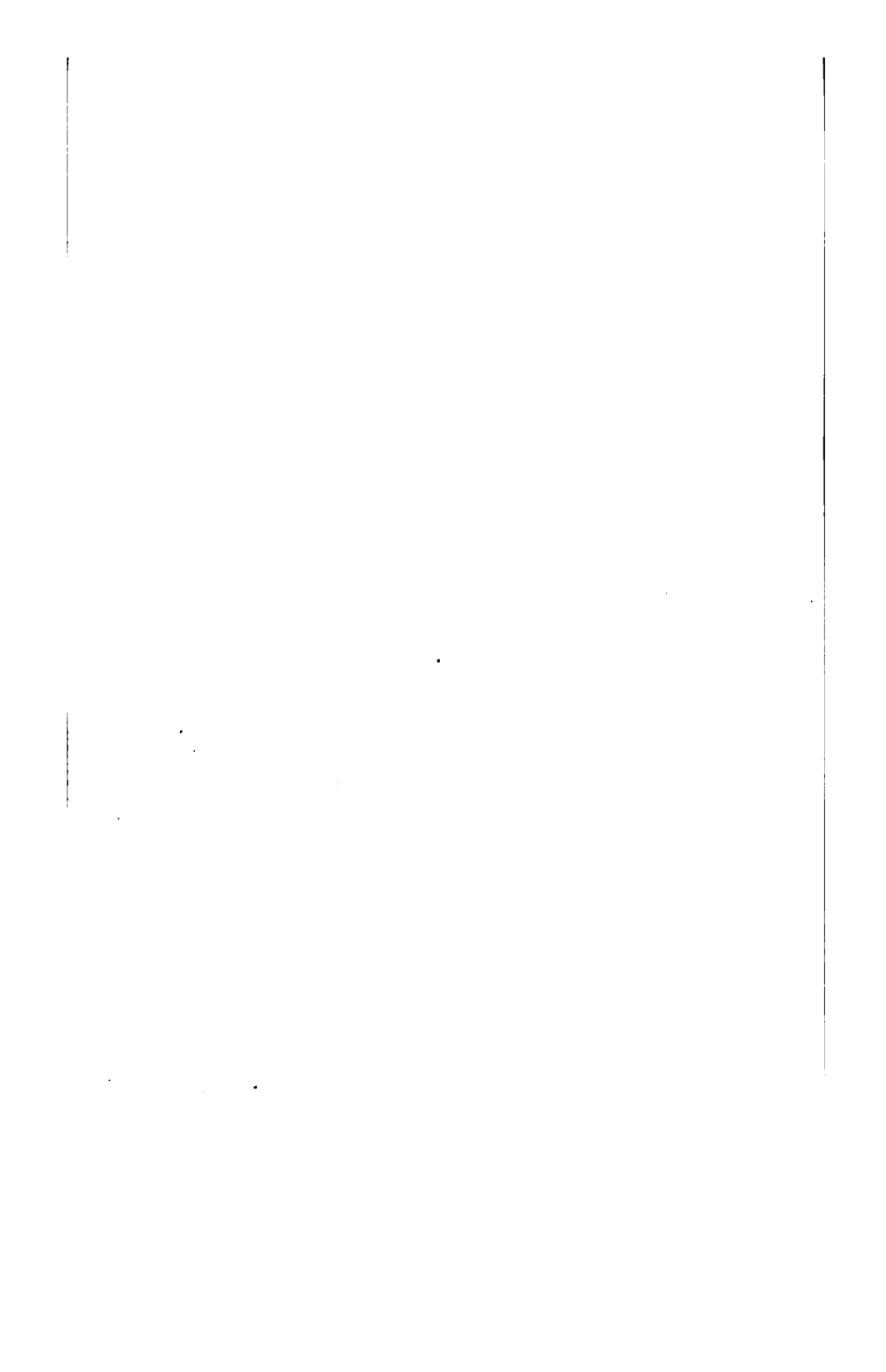


George Bancroft

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1871

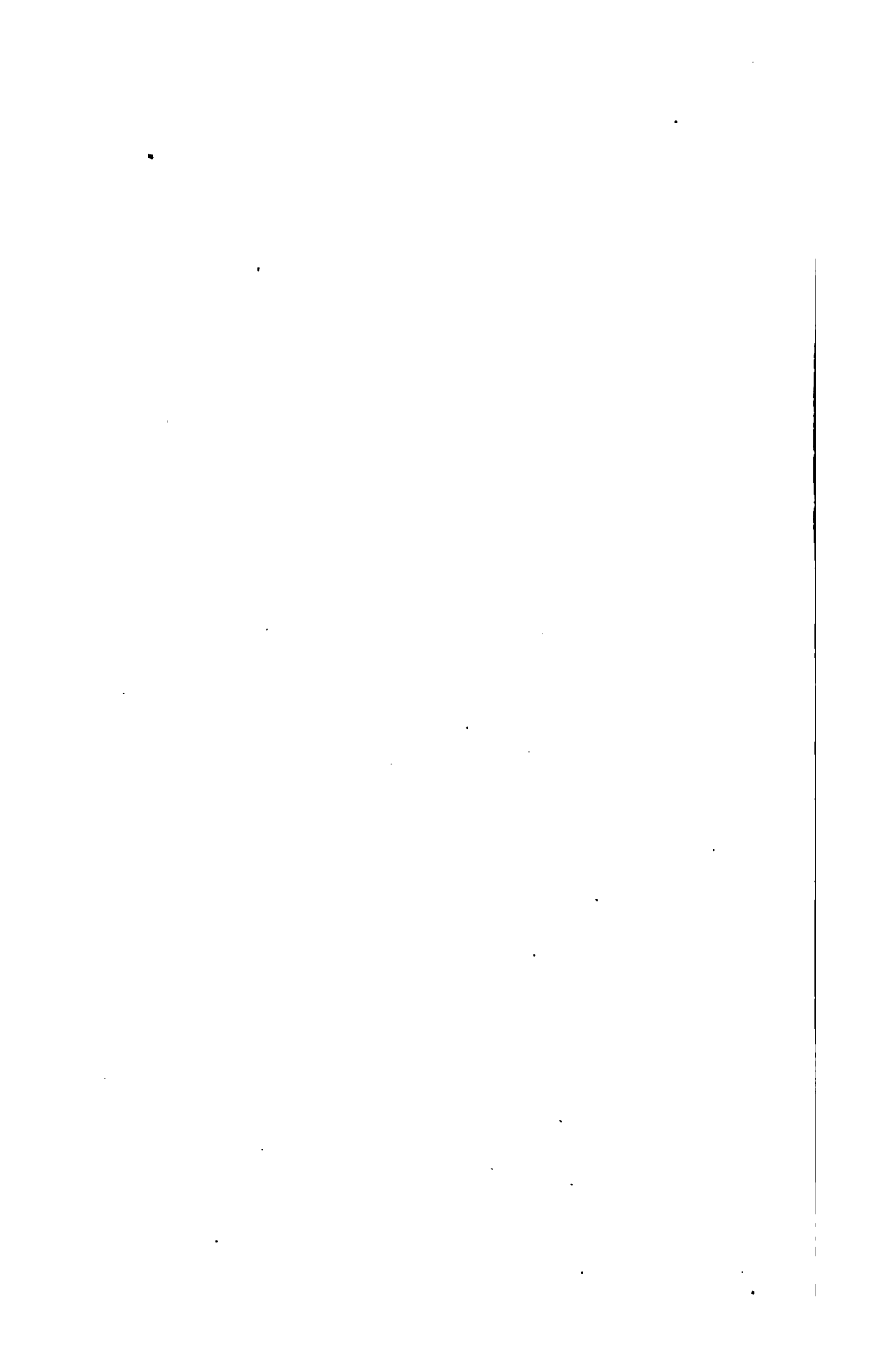




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Molencourt



SPEECH

OF

SIR WILLIAM MOLESWORTH, BART.

ON

TRANSPORTATION.

DELIVERED IN THE HOUSE OF COMMONS ON THE 5th MAY, 1840.

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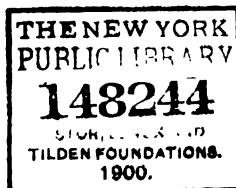
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SPEECH

OF

SIR WILLIAM MOLESWORTH,

ETC.

SIR,

IN submitting to the consideration of the House the motion of which I have given notice, the task which I have to perform is both difficult and painful; difficult on account of the extent of the subject; painful on account of the nature of many of the facts to which it will be my duty to refer. I assure the house, however, that I do not approach this subject without having long and carefully studied it, or without having carefully examined and weighed every opinion and every fact connected with it. I therefore presume to solicit a patient and attentive hearing.

The Report of the Committee to which this motion relates, was laid on the table at the end of the session of 1838. Two reasons prevented me last year from bringing the topics contained

in that report before Parliament. First, I entertained the hope that the executive government would have come forward with some general measure founded upon that report, which would have rendered any motion unnecessary. I was unwilling, therefore, to embarrass the government in a matter which is one of great difficulty, by any premature steps. Secondly, as that report contained many facts reflecting on the moral character of the penal colonies, I was earnestly entreated, by several persons connected with those colonies, not to call upon Parliament for an opinion, before an opportunity could be afforded to the colonists to peruse those statements, and to contradict them if incorrect. Now that full time has been given both to the government to mature their plans, and to the colonists to reply to any mis-statements, there can be no objection to asking Parliament to consider the subject of this motion.

The committee in question, and of which I had the honour to be chairman, was appointed for the threefold purpose, first, of inquiring into the efficacy of transportation as a punishment; secondly, of ascertaining its moral effect on the penal colonies; and lastly, the committee were directed to consider of what improvements the existing system was susceptible. A very few words would be sufficient to state the result of

those inquiries, if I could suppose that honourable members had read any considerable portion of that report; but, as it cannot be supposed that such has been the case, I must endeavour, as briefly as I can, to state the grounds upon which the committee came to their conclusions.

The materials from which the committee formed their opinions, were of the best possible description. They were chiefly official documents, furnished by the Colonial Office, consisting of despatches, reports to and from the governors of the penal colonies, and criminal returns. Numerous witnesses were examined; but in order to avoid any cavil as to the credibility of those witnesses, not one fact of any importance has been stated by the committee in their own report, which is not corroborated by official documents. And for the same reason, in the observations which I shall make to-night, I shall confine myself almost entirely to those documents.

The first subject of which I shall speak, is the nature of transportation, and the condition of the convict under that punishment. Transportation is a compound punishment, consisting of three distinct elements: banishment from this country; compulsory labour in a penal colony; and the various punishments by which that compulsory labour is enforced. It is not necessary at present to say anything of the effects of mere

banishment; I will proceed at once to describe the condition of the convict in the penal colonies. The penal colonies of Great Britain are, first, and largest, New South Wales, founded in 1787. To this place 75,200 criminals have been transported; and in the year 1836, the number of offenders under punishment there were, men 25,254; women 2,577. The next in magnitude is Van Diemen's Land, founded in 1804; to which, since 1817, 27,759 convicts have been sent; and of which the criminal population, in 1835, consisted of 14,914 men, and 2,054 women. The third is Norfolk Island, a dependency of New South Wales, which contains about 1,200 convicts. The last which must be mentioned is Bermuda, containing about 900 convicts. Bermuda need not again be referred to, as the condition of the convicts there is nearly the same as that of convicts in the hulks: my observations will, therefore, be confined to the Australian colonies.

The greater portion of the punishment of the convicts in these colonies, consists in compulsory labour: that labour is either enforced by officers of the government, or by private individuals, to whom the convicts are assigned as servants. I will first speak of the latter class; which is by far the most numerous one, as it contained in 1836, about 29,000 convicts. A

convict is said to be assigned, when the right of the government to the labour of the convict is made over to some private individual, who becomes his master. The master determines, according to his will and pleasure, the nature and amount of labour to be exacted from his convict servant; therefore, as the house must at once perceive, the condition of an assigned convict depends entirely upon the character, temper, position in society, and occupation of his master; and is, consequently, as uncertain, as those circumstances are uncertain. For instance, some convicts become domestic servants, and frequently receive wages; others, if possessing mechanical skill, are employed in various trades, and are highly prized; the greater portion, however, are occupied either in agriculture, or in tending flocks and herds. In the families of some settlers, convicts are as well treated as servants ordinarily are in this country. In other families, their fate is far different; they may be considered to be slaves; for the power of the master to cause punishment to be inflicted on his convict servant is very great, and the punishments, even for trifling offences, are very severe. In proof of this, the words of the law may be cited, by which it will appear, that a convict may be summarily punished for "drunkenness, disobedience of orders, neglect of work,

absconding, abusive language to his master or overseer, or any other disorderly or dishonest conduct, by imprisonment, solitary confinement, labour in irons, or fifty lashes." And this law is by no means inoperative. In 1835, the convict population of New South Wales did not exceed 23,000; the summary convictions, chiefly for the offences just mentioned, amounted to 22,000; and the number of lashes inflicted, exceeded 100,000. In Van Diemen's Land, in 1834, the convict population was about 15,000; the summary convictions were nearly 15,000; and the number of lashes inflicted there exceeded 50,000. On the other hand it should be remarked, that a convict, if ill-treated by his master, may apply to a bench of magistrates for redress; but then the majority of those magistrates are generally owners of convict labour.

Instead of troubling the house with any observations of my own on the general effects of the assignment system, I will read a few short extracts from the written opinions of the persons who must necessarily have been best acquainted with this subject, and whose authority will have the greatest weight with the house. Sir George Arthur, late Lieutenant-Governor of Van Diemen's Land, has given a most graphic description of the assignment system, in a despatch

which is inserted in the report of the committee. He says, "You cannot have an idea of the vexations which accompany the employment of convicts, or of the vicissitudes attendant on their assignment. Their crimes and misconduct involve the settlers in daily trouble, expense and disappointment. There is so much peculation, so much insubordination, insolence, disobedience of lawful orders, and so much drunkenness, that reference to the magisterial authority is constant. There can be no doubt things appear better in the colony than they really are." Such are the statements of the Lieutenant-Governor of the one penal colony, as to the general conduct of assigned convicts. I will now quote the opinion of the Lieutenant-Governor of the other colony, as to the great inequality of this punishment. Sir Richard Bourke states, as the result of his own experience, that "it is one of the most apparent and necessary results of the system of assignment, to render the condition of convicts, so placed, extremely unequal, depending, as it must, on a variety of circumstances over which the government cannot possibly exercise any controul. It would be quite impracticable to lay down regulations sufficient to remedy this inequality." The only other authority, which it is necessary to quote, is that of Captain Maconochie, secretary to Sir J. Franklin, the present

Lieutenant-Governor of Van Diemen's Land. Captain Maconochie describes, from his own careful observation, the moral effects of assignment, in the following terms: "The practice of assigning convicts to masters is cruel, uncertain, prodigal; ineffectual either for reform or example, and can only be maintained in some degree of vigour by extreme severity. Some of its most important enactments are systematically broken by the government itself; they are, of course, disregarded by the community. The severe coercive discipline, which is its principal element, is carried so far as to be at issue with every natural, and in many cases even every laudable, impulse of the human mind. It defeats, in consequence, its own most important objects; instead of reforming, it degrades humanity." And, in confirmation of these statements, Sir F. Forbes, the late Chief Justice of Australia, declared, that under the assignment system, "it frequently happens, that lesser offenders against the law come to be punished with disproportionate severity, while greater criminals escape with comparative impunity."

It would be useless for me to attempt to add anything to these emphatic condemnations of the assignment system, coming, as they do, from persons of the highest authority on these matters, and which remain unimpugned and uncontra-

dicted. It is stated that the government intend to put a stop to the assignment of convicts: I trust they will persevere in that intention; and will discontinue a system, which confides one of the most important and difficult functions of an executive government, namely, the task of punishing offenders, to the uncertain interests and capricious feelings of private and irresponsible individuals.

I said there are two classes of convicts; one composed of convicts in assigned service; the other of convicts under the superintendence of officers of the government. I will now speak of the latter class; which will be the only one, if the assignment system be abolished. The government convicts are employed on various public works, in the gaols, on the roads, in the marine and survey departments; and, as the house will be surprised to hear, in Van Diemen's Land they are appointed constables in the police. I think I may, without exaggeration, describe the government convicts as the most profligate and desperate portion of the criminal population of the penal colonies. They are generally collected together in a narrow space, without any attempt at classification or separation. They have full opportunities of communicating with each other: they perform very little labour, and are subject to a very lax super-

intendence. Gangs of these convicts, called "road parties," were once scattered over the colony of New South Wales, for the purpose of making roads, and were little better than so many bands of robbers. I do not reproach either the general or the colonial government for the management of these convicts; for it was utterly impossible to obtain in those colonies the requisite amount of efficient superintendence; and without efficient superintendence penal discipline is impossible, even in the best constructed prisons. How much more must this have been the case, when the greater portion of the government convicts can hardly be said to have been confined in a prison at all. The utter impossibility of obtaining efficient superintendence, is proved by the fact, to which I have referred, that it was found necessary to establish a police composed of convicts; and Sir George Arthur declared that that convict police was better than any police of freemen he could obtain in the colony of Van Diemen's Land. I wish to call the especial attention of the house to these facts; because it has been proposed to continue transportation, and to place all convicts under the superintendence of the colonial government. If this be done, transportation will become, in some respects, similar to the punishment in the hulks and gaols at home; but, with this important difference, that

on account of the cost of transport and of proper superintendence, it would be more expensive than the most perfect system of prison discipline in this country. This is the opinion which the committee have recorded in their report, after a most careful examination of all the facts. I shall return again to this subject, when I speak of the expense of transportation.

From the want of efficient superintendence, from the nature of the assignment system, and from other causes, hardly any of the means, which have been devised to prevent misconduct amongst offenders during the period of their punishment, were applicable to transportation. In order to preserve some degree of discipline amongst the convicts, a vain attempt has been made to terrify them into good behaviour: for this purpose, minor offences have been converted into crimes, and severely punished; and the convict code of the penal colonies has not its equal in severity, at least in the civilised world. Captain Maconochie, speaking of these punishments in Van Diemen's Land, says, "They are severe, even to excessive cruelty. Besides corporal punishment, to the extent of fifty to seventy-five lashes, and even, in some rare instances, a hundred lashes, solitary confinement, and months, or even years of hard labour in chains (on the roads, or at a penal settlement), are lightly or-

dered for crimes in themselves of no deep dye : petty thefts (chiefly in order to obtain liquor), drunkenness, indolence, disobedience, desertion, quarrelling among themselves, and so forth."

It is necessary to make a few observations with regard to these punishments. I have already referred to the great amount of flogging in the penal colonies. There is ample proof, in the documents laid before the committee, of the severity with which it is inflicted. It is the favourite punishment with the masters of convicts ; for it does not deprive them of the services of their servants, as is the case when they are sent to the chain gangs.

The punishment of the chain gangs, according to Sir George Arthur, "is as severe as can be inflicted upon man." The number of convicts suffering this punishment was about 1,700 in the two colonies. They are described by competent witnesses as being "locked up, from sunset to sunrise, in caravans or boxes which hold from twenty to twenty-eight men ; but in which the whole number can neither stand upright nor sit down at the same time (except with their legs at right angles to their bodies), and which in some instances do not allow more than eighteen inches in width for each individual to lie down upon the bare boards ; they are kept to work under a strict military guard during the

day, and liable to suffer flagellation for trifling offences, such as an exhibition of obstinacy, insolence, and the like." This description fully bears out the statement of Sir R. Bourke, that the condition of these convicts is one of great privation and unhappiness. Connected with the subject of the chain gangs, I would direct the attention of the house to the evil effects upon the discipline of soldiers which ensue from employing them in guarding convicts. Colonel Breton, an officer in command of a regiment in New South Wales, told the committee that his regiment was greatly demoralised by this description of duty, and likewise by association with the convicts, amongst whom the soldiers not unfrequently found near relations. I observed last year in a Sydney newspaper, that at one time, the 14th December 1838, a lieutenant and twenty-one soldiers were confined in the gaol at Sydney on criminal charges.

The last and greatest in the scale of these punishments is the penal settlements. In speaking of them I must entreat the indulgence of the house; for it will be my painful duty to state horrible and appalling facts, which I could not have credited, which I could not have believed that a Christian country would have permitted, were they not proved beyond doubt by the concurrent testimony of governors, judges,

and ministers of religion. The penal settlements to which, as I have already remarked, convicts are frequently sent for offences of no very great magnitude, are two in number ; the one Norfolk Island, a dependency on New South Wales ; the other Port Arthur, in Van Diemen's Land. In these places there are about 2,000 convicts, who, with their guards and keepers, constitute the sole inhabitants. According to the authority of the superintendent of convicts in Van Diemen's Land, "the work appointed for these offenders is of the most incessant and galling description the settlement can produce, and any disobedience of orders, turbulence, or other misconduct, is instantaneously punished by the lash." Sir Francis Forbes, chief justice of Australia, the most unquestionable authority on such a subject, declared in a letter to the law reform commissioners, that "the experience furnished by these penal settlements has proved that transportation is capable of being carried to an extent of suffering such as to render death desirable, and to induce many prisoners to seek it under its most appalling aspects." The same learned judge, in his examination before the committee, gave the following remarkable evidence. He said, "I have known cases in which it appeared that men had committed crimes at Norfolk Island for the mere purpose of their being sent up to Syd-

ney to be tried, and the cause of their desiring to be sent was to avoid the state of endurance under which they were placed in Norfolk Island. I think they contemplated the certainty of execution, from the expressions used by them. I believe they did deliberately prefer death, because there was no chance of escape, and they stated they were weary of life, and would rather go to Sydney and be hanged." And, in reply to a question from my honourable friend, the member for Liskeard (Mr Charles Buller), Sir F. Forbes said, "If it were put to myself, I should not hesitate a moment in preferring death, under any form that you could present it to me, to such a state of endurance as Norfolk Island." In confirmation of these statements, the authority of Sir R. Bourke may be quoted. That gentleman, during the period of his government of New South Wales, was obliged to apply for an act of parliament to establish a criminal court in Norfolk Island; and he did so on the express grounds, that if criminals were tried and executed on the spot, it might tend to prevent the commission of the crimes to which I have alluded. The statute required was passed in 1834.

It is not to be wondered at that, driven to desperation, as these convicts are, they have not unfrequently attempted to mutiny. In 1834 an attempt of this description was nearly successful.

Nine convicts were killed in the struggle which took place; twenty-nine were condemned to death, and eleven executed. Mr Justice Barton was sent to Norfolk Island to try them: on his return he told the jury of Sydney, that "it was painful in the extreme to see the convicts in this place, herding together, without any chance of improvement." A Catholic priest, of the name of Ullathorne, went to Norfolk Island to afford religious consolation to the convicts, who, I said, were condemned to death for mutiny. He was examined before the committee; and in his examination he gave the following account of the strange scene he witnessed, when he first made known to the condemned the names of those amongst them who were to be executed, and of those who were to be reprieved. The following are his own expressions:—"I said a few words to induce them to resignation; and I then stated the names of those who were to die; and it is a remarkable fact, that, as I mentioned the names of those men who were to die, they, one after the other, dropped on their knees, and thanked God that they were to be delivered from that terrible place, whilst the others remained standing mute. It was the most horrible scene I ever witnessed. Those who were condemned to death appeared to be rejoiced."

Sir! A human being cannot be made un-ut-

terably wretched, without becoming in an equal degree depraved. The extremes of misery and of immorality are generally found existing together. In both respects Norfolk Island has not its parallel in the world, except perhaps at the kindred settlement of Port Arthur. In proof of this I will refer to the official report on the state of Norfolk Island, which was drawn up by officers resident there, at the order of Lord Glenelg. The Rev. R. Stiles, the resident chaplain, stated, "that blasphemy, rage, mutual hatred, and the unrestrained indulgence of unnatural lust, are the things with which a short residence in the prison wards of Norfolk Island must necessarily familiarise the convict." Mr Arnold, the deputy assistant commissary general, stated in his report, "that it is much to be feared that that horrible crime which brought down fire from heaven on those devoted cities of Scripture, exists, and is practised here to a great extent; indeed, I have been informed by one who has the best opportunity of judging of the truth of the information (the colonial surgeon), that actually, incredible as it may appear, feelings of jealousy are exhibited by those depraved wretches, if they see the boy or young man with whom they carry on this abominable intercourse, speak to another person. Crimes, too, of a bestial nature, it is also to be feared, are too fre-

quent. The dying confession of an unfortunate being, who was executed some time ago, proves the truth of this." These are statements from official documents in which the most implicit reliance can be placed. Similar statements were made by Sir F. Forbes and Dr Ullathorne. The latter gentleman considered that two-thirds of the convicts in Norfolk Island were guilty of unnatural offences. And, lastly, Messrs Backhouse and Walker, two members of the Society of Friends, who had been for five years in the penal colonies investigating the effects of transportation, have declared in their report, that "by the acknowledgment of the persons themselves, those crimes were extremely prevalent among them."

With reference to Port Arthur, the penal settlement of Van Diemen's Land, Sir George Arthur stated that he had known instances of prisoners at that place actually committing murder, "in order to enjoy the excitement of being sent up to Hobart Town for trial, though aware that in the ordinary course they must be executed within a fortnight after arrival." I will not, however, revolt the house by repeating with regard to Port Arthur, horrid details similar to those which I have stated with respect to Norfolk Island.

The only other class of convicts, which must be mentioned, includes those who have obtained

indulgences, consisting in a remission of penal labour. A convict generally at the end of four, six, or eight years, according to the length of his punishment, obtains what is termed a ticket of leave, unless he has committed in the colony some considerable offence. A ticket of leave enables the convict who holds it, to work on his own account; and, as there is a great demand for labour in the penal colonies, the holder of a ticket of leave can easily obtain good wages. As this indulgence is liable to be taken away in case of misconduct, it is on the whole a considerable inducement to good behaviour; and it appears to me to be by far the least objectionable portion of the transportation system. At the same time it cannot be denied that the greatest abuses have existed in the granting of tickets of leave. But it is not my intention, indeed it would be impossible within the limits of a speech, to mention the various and complicated abuses which have existed in connexion with transportation. My object is to describe that system as a whole, supposing it to be administered in the best possible manner, and omitting from my consideration those defects in the existing system to which it is asserted that remedies can be applied. And upon this description I call upon the house to pronounce an opinion in favour of the discontinuance of that punishment.

With this object in view, I now ask: does transportation fulfil the conditions of a good punishment? I answer it does not, for reasons I will immediately state. The object of punishment is to prevent crime. For this purpose the Legislature threatens to inflict certain punishments for certain offences. When an offence is committed, then the Legislature is bound to punish the offender, not for the sake of revenge, but in order to fulfil its promise, and to prove that its threats are not vain and empty menaces. By this means it endeavours to supply an additional motive from without, which may restrain the evil-disposed and inspire them with apprehension. At the same time, it gives to the community the best security in its power against the commission of acts noxious to its well-being; and allays that general alarm, which would be the consequence of the impunity of crime. The chief aim of punishment, therefore, is to produce terror by the example made of offenders. "*Pena in paucos ut metus in omnes*," is the basis of all good penal legislation; and to this consideration every other is subordinate. It is equally evident, however, that the great object of punishment, namely, terror, should, as far as possible, be attained with the least amount of human suffering. For it cannot be too often repeated, that the end of punishment is not to make an offender suffer,

but to warn others from imitating his example. Therefore, if more than the amount of suffering requisite for this purpose be inflicted, the punishment becomes a cruelty. Indeed, the ideal but impossible perfection of punishment would be found in such an one as would appear to mankind clothed with all the horrors of Tartarus, yet would conduct the offender to Elysium. At all events, however, a punishment is bad when it causes much more pain than is either threatened in the law, or generally believed to be inflicted. For then superfluous pain, that is, pain not producing terror, not accomplishing the object of the law, is inflicted.

If transportation be tested by these principles, its defects, as a punishment, are at once apparent. For what is the amount of apprehension it produces? What are its effects on the minds of the criminal population in inspiring terror? The sentence of a judge, in condemning an offender to be transported, may be summed up in the following words. He says to the culprit, "You shall be removed from the land of your birth to a country with which you are unacquainted." "You shall be separated for many years, perhaps for ever, from your friends and relations." And lastly, "You shall be compelled, in your new dwelling place, to toil for the benefit of others." The two first threats, of banishment and separation from friends (whatever might have been their

effect in former times), have gradually lost the greater portion of their penal terror. Because convicts are no longer transported to an unknown and strange land, but to countries inhabited by thousands of their companions in guilt, and to which tens of thousands of voluntary emigrants have been hastening, as to a land of promise. It not unfrequently happens, that whilst a judge is expatiating on the miseries of exile, at the same time, and perhaps in the same place, some active agent of emigration may be found magnifying the advantages of the new country ; lauding the fertility of its soil and the beauties of its climate ; telling of the high wages to be obtained, the enormous fortunes that have been made ; and offering to eager and willing listeners, as a boon and especial favour, the means of conveyance to that very place to which the convict in the dock has been sentenced by the judge for his crimes. During the last and preceding year, 10,000 free emigrants and 5,000 criminals were landed on the shores of the penal colonies ; many of them became servants in the same families, labourers in the same fields ; innocent and guilty were thus confounded together, to the subversion of all notions of punishment, and to the destruction of all morality. Can anything be said in defence of such an anomaly in legislation as this ?

To return to the subject of the apprehension produced by transportation. It must be borne in mind that punishment is meant to operate chiefly upon those persons who are inclined to commit crimes. It is comparatively useless to persuade the well-disposed that a punishment is a severe one. It is upon the minds of the criminal population that such a conviction ought to be impressed. Now, except in a few cases, all that the latter class can apprehend from such a punishment as transportation, must consist in the penal labour and privations, to which they may be subjected in the colonies. But who can tell beforehand, what will be the amount of that labour, or the nature of those privations? It has been shown that the condition of a convict is the merest chance; that it ranges between the two extremes, of a servant subject to trifling restraint, and of a slave enduring long and tedious misery. My conviction is, that much more suffering is inflicted in the penal colonies than is credited in this country; suffering, therefore, unknown; unproductive of good; pure, gratuitous, evil. Nor, from the remoteness of those places of punishment, is it possible to make the criminal population understand the actual condition of a convict. The accounts which they receive, are generally from convicts who have been fortunate in this lottery of punishment, and are therefore

too favourable. On the other hand, in the very few cases in which the unfortunate communicate with their acquaintances in this country, it is proved that they generally deny their sufferings ; prompted thereto partly by a desire to bring the laws into discredit, and thus to revenge themselves upon the lawmakers and their punishers ; partly by the wish, common to such degraded beings, to have companions in misery. In the despatches of Sir George Arthur many instances of this kind are stated ; and that gentleman proposed (with a view to obviate the misapprehensions arising from these sources) that statements of the actual condition of convicts should be published and circulated by the government. It is evident that this means would prove ineffectual ; for the criminal population would place but little reliance in official statements as compared to their own sources of information. If, however, they were better acquainted with the nature of transportation, than in my humble judgment they are or can be, still, all they would learn is that transportation is a most unequal and uncertain punishment ; that it is (as I have already said) a mere lottery, in which there are both many prizes and many blanks. And, judging from all experience with regard to such persons, the hope of obtaining the prizes would with them, as with gamblers, more than counter-

balance the fear of the blanks. For these reasons, and supported by the testimony of most persons acquainted with the feelings of the criminal population, I do not hesitate to assert that transportation produces very little apprehension, far less than that which should correspond to the actual suffering inflicted.

Independent of the production of terror amongst the evil-disposed generally, which is the main object of punishment, there are other but subordinate objects, which a good punishment should effect with regard to the offender himself. I will merely enumerate them. It should make it difficult, if not impossible, for a criminal to commit crime during the period of his punishment. It should so improve his moral character as to render crime distasteful to him; or, if it does not improve him, it should at least, by the experience of the suffering endured, deter him from fresh crimes after the termination of his punishment. And, lastly, it should, if possible, ultimately place him in a position in which he would not be exposed to strong temptations to relapse into vicious habits. In every one of these respects transportation is inefficient. The immense number of summary convictions of which I have already spoken, and the other criminal returns to which I shall presently refer, prove that crime is very common amongst con-

viets both during their period of punishment and subsequently. Even the tortures of Norfolk Island and Port Arthur do not deter them from committing crimes which cause them to be sent to those places a second and a third time. And this is not extraordinary ; because such punishments degrade the human being into a brute, destroy his reflecting faculties, and leave him no other thought or wish but the immediate gratification of his appetites. With regard to the reformation of the offender by transportation, Mr Stephens, the late Attorney General of Van Diemen's Land, has declared "at all events, if that be one of the objects of punishment, it is on the present plan of transportation hopeless, in the existing state of things nearly all the tendencies of the plan are the other way." And Captain Maconochie asserts, "by transportation the prisoners are all made bad men instead of good ; it is shown," he says, "by the official reports transmitted with his papers, that scarcely any are reformed, and human nature does not stand still, if not improved it gets worse." Every witness examined, every document laid before the committee, confirmed these positions. My examination of the effects of transportation, as a punishment, may be concluded with the observation, that the offender at the expiration of his sentence is left in a community, where I may say without ex-

aggragation that vice is the rule, and virtue the exception.

This brings me to the next question ; what has been the moral influence of transportation on the state of society in the penal colonies ? An answer is afforded by their criminal returns ; which demonstrate that an enormous amount of crime is committed in those colonies ; the greater portion of which may be attributed to transportation. For it is evident that in communities like those of Australia, where there is a great demand for labour, where wages are high, where every man who is willing to work can easily obtain a comfortable subsistence, a large amount of crime can only be ascribed to the depraved character of the population, and not to those economical causes which produce misery, want, and immorality, in old and densely peopled countries.

In order that the house may form a notion of the amount of crime in those colonies, I will first refer to the summary convictions in Van Diemen's Land in the year 1834. I select that year, because there are materials in the despatches of Sir George Arthur, from which a more accurate estimate can be formed of the convictions in that year than in any other. The house should bear in mind that the community of Van Diemen's Land was then a very small one. Its population in 1834 did not exceed 40,000; of whom 16,000 were con-

victs, 1,000 soldiers, and 23,000 free inhabitants ; what proportion of the latter had been convicts it is impossible to say. In this small community the summary convictions amounted to about 15,000 in the year in question ; amongst which there were about 2,000 for felony, 1,200 for misdemeanour, 700 for assaults, and 3,000 for drunkenness. 11,000 of these convictions were of convicts, who are summarily punished for all offences to which the penalty of death is not attached. Some of their punishments were very severe, as about 260 convicts received extension of sentence, about 100 were condemned to the penal settlements, 1,000 to the chain gangs, 900 to the road parties, 900 to solitary confinement or the treadwheel, and 1,500 were flogged and received about 51,000 lashes. Amongst the 23,000 free inhabitants, the summary convictions were between 3,000 and 4,000. About 2,200 (that is, nearly one-tenth of the free population) were in one year fined for drunkenness ; 200 were fined for assaults ; and 800 for offences under colonial acts. In New South Wales the summary convictions were nearly the same in proportion to population as in Van Diemen's Land.

In order to complete the account of the state of crime in these colonies, I must next refer to the criminal trials before the supreme court and

quarter sessions. It should be remembered that convicts are not tried before these courts, except for offences to which the punishment of death is attached. Therefore a great portion of the following convictions must have been of free persons. On the average of the seven years from 1829 to 1835, both inclusive, these convictions amounted every year to about one in a hundred of the whole population; an enormous proportion; as convictions in England are about one in a thousand, and in Scotland about one in thirteen hundred of the population. A large portion of these convictions were for offences of the greatest magnitude. This appears from the fact that, during the period of which I have spoken, whilst the average population of the penal colonies did not exceed 90,000, the annual number of convictions for murder and attempt at murder were about 34; for rape, seven; for highway robbery and bushranging, 66; for burglary, 50; for forgery, 13; for sheep and cattle-stealing, 53; for larceny and receiving stolen goods, 367. The average number of sentences of death were 132 a year; of executions, 52; and of sentences of transportation, 369. Thus in seven years, in these communities, whose population did not exceed one-half of that of Westminster, 923 persons were condemned to death, 362 executed, and 2,586 transported; without including the

convicts who were summarily transported or had their sentences extended, and who probably amounted to twice as many more. And it may be stated, on the authority of Captain Maconochie, Mr Justice Burton, and of the criminal returns, that crime has gradually increased in those colonies in a greater proportion than population.

In order to give the house a more accurate notion of the state of crime in the penal colonies, than these figures will of themselves convey, I will read a short extract from the report of the committee, in which they calculate what would be the amount of crime in this country, if our criminal statistics were similar to those of the penal colonies. They state, "that in proportion to the respective population of the two countries, the number of convictions for highway robbery (including bushranging) in New South Wales exceeds the total number of convictions for all offences in England; that rapes, murders and attempts at murders are as common in the former as petty larcenies in the latter country. In short, in order to give an idea of the amount of crime in New South Wales, let it be supposed that the 17,000 offenders who were last year tried and convicted in this country for various offences before the several courts of assize and quarter sessions, had all of them been condemned for capital crimes; that 7,000 of them

had been executed, and the remainder transported for life: that, in addition, 120,000 other offenders had been convicted of the minor offences of forgery, sheep-stealing, and the like; then, in proportion to their respective populations, the state of crime and punishment in England and her Australian colonies would have been precisely the same." In addition, it should be observed that the committee have omitted entirely from these calculations any reference to the immense number of summary convictions, (some of them for very grave offences), to which I have already referred.

That these statements are not in the slightest degree exaggerated, may be proved by the testimony of Judge Burton who, in the charge already mentioned, gave the following fearful picture of New South Wales. He said, "It would appear to one who could look down upon that community, as if the main business of them all were the commission of crime and the punishment of it; as if the whole colony were in motion towards the several courts of justice; and the most painful reflection of all must be, that so many capital sentences and the execution of them had not had the effect of preventing crime by the way of example."

It may likewise be stated upon the same incontrovertible authority, that there are a great

number of crimes committed in New South Wales, the authors of which are never discovered. That much crime should escape detection, is a fact not to be wondered at, when it is known, that the limits of location in New South Wales, embrace an area greater than the whole of England ; and that over this vast territory, some thousands of convict shepherds and stockmen roam at large, generally with arms in their hands. I hardly ever take up a newspaper from New South Wales, in which there is not some account of bushranging. For instance, it not unfrequently happens, that a runaway convict, mounted and armed to the teeth, will ride up to the residence of a remote settler, and commit a robbery in the middle of the day ; the convict servants generally standing by as idle spectators, and refusing to assist their master in any attempt to resist or arrest the robber.

The most atrocious and wanton cruelties are frequently perpetrated by the convict shepherds on the natives. I will mention, as an example, one case which occurred the year before last. In the vicinity of one of the remote cattle stations of New South Wales, a body of natives, amounting to about fifty in number, had been residing for a considerable period of time in perfect tranquillity, molesting no one. On a sudden there arrived at this place some eleven

convicts. They seized thirty of the unoffending natives, tied them together with a rope, led them away a short distance from the station, and then put every one of them, men, women, and children, to death, with the exception of one woman, whom, on account of her good looks, they kept as a concubine for one of their comrades. The murderers were subsequently apprehended and tried. The first jury refused to convict, though the evidence against them was conclusive. They were tried a second time for the same, though technically a different, offence, and on the same evidence; they were convicted, condemned to death, and seven of them were executed. It may be remarked, as illustrative of the state of feeling in the penal colonies with regard to the natives, that not only did the first jury refuse to convict, but the second jury signed a petition in behalf of the murderers. Petitions likewise were presented in their favour from a considerable body of colonists. Some of the colonial newspapers loudly condemned the governor (to use their own words) "for putting white men to death for having killed a few black cannibals." And the condemned themselves, in their last moments, declared that they were not aware at the time that they were committing any offence in destroying the blacks, as similar acts had been frequent in the colony; and of the truth of this

assertion there can be no doubt. In Van Diemen's Land, likewise, similar atrocities have been committed by the convicts. It is recorded that in many instances they killed or castrated the native men, in order to obtain possession of their women. These outrages led to repeated attacks from the natives on the persons and property of the colonists, which at one time threatened the existence of that colony. The settlers found it necessary, in self defence, to hunt down the natives as if they had been so many wolves. And, as the house is probably aware, the aborigines of Van Diemen's Land are now exterminated, with the exception of a few, who have been removed to perish in Flinder's Island. Throughout the whole of the Southern Ocean, New Zealand, and the islands of the Polynesian Archipelago, traces are to be found of the cruelties practised by escaped convicts on the aborigines, which have produced amongst them the greatest antipathy to our race, and have been most injurious to our commerce.

Sir: though the amount of crime of which I have been speaking appears enormous, yet a moment's reflection on the nature of the materials of which these communities are composed, must dispel all astonishment at its extent. Fifty years ago, when New South Wales was founded, one of the greatest and most original thinkers

that this country ever produced, I mean Bentham, foretold the consequences of planting a colony with criminals, subject to a punishment which had no tendency to improve their character; and the result is in strict conformity with his anticipations. Up to the year 1836, 100,000 convicts had been transported, whilst the number of free emigrants to the penal colonies could not have exceeded 60,000. It is evident, even without the confirmation of the facts just stated, that this almost equal admixture of innocent and guilty, could conduce but little to the improvement of the latter, whilst it must have tended greatly to the deterioration of the character of the former.

Independent, however, of the pernicious consequences of assembling so many criminals in the same place, where they can form a criminal class, and keep each other in countenance, transportation has operated injuriously to the moral well-being of those communities in another manner. It has caused a great disproportion of sexes. Of the 100,000 convicts of whom I have spoken, not 13,000 were women. According to the last census, the proportion of men to women in the whole population of the penal colonies was as five to two; amongst the convicts in the towns, as seven to two; and in the agricultural districts, where the convicts chiefly reside, it was seventeen to one. The question

may be asked, why have so few women been transported, when the deplorable consequences of such a disproportion of the sexes are self-evident? The answer puts in the strongest light the great imperfection of transportation as a punishment. The answer is this; that the colonial authorities were generally opposed to the transportation of any considerable number of women, because they found it impossible to devise any means of punishing them which were not liable to the most serious objections. The conduct of female convicts was so invariably bad, that respectable settlers were generally unwilling to receive them as assigned servants in their families; and preferred the services of men in those domestic occupations which are usually performed by women. In some families, in which they were received, the most lamentable results ensued, from the corruption of young children entrusted to their charge. And it is needless for me to describe what were the consequences of their being assigned to the lower description of settlers; they were such as the colonial authorities could neither sanction nor overlook. Lastly, the women who were assigned, were constantly returned to the government to be punished for misconduct; and the government was, as I have already observed, utterly at a loss what to do with them. Sir, penitentiaries are

the only modes of punishment suitable for women. But in the penal colonies there were no means of establishing a good penitentiary system. Indeed, for a considerable period, the penitentiary in New South Wales was little better than a brothel, and a lying-in hospital. As the only means of disposing of female convicts, marriages were encouraged between them and the free and convict populations; and numerous marriages did take place. Though this plan of dealing with female offenders is at variance with every notion and object of punishment, yet I do not hesitate to declare my opinion, that it was the best and wisest under existing circumstances. In support of this position, the high authority of Captain Maconochie may be quoted, who has had the best means of ascertaining the moral effects of transportation. That gentleman thought it would be desirable to give the greatest possible extension to the marrying of female convicts; and for this purpose he even proposed that "convict married women, whose husbands refused after a given time to join them, should become free to form fresh connections." And Captain Maconochie asserted, that he could "prove the expediency of this plan, by statements of the consequences of the want both of husbands and wives in the penal colonies, as would make the blood curdle." It is not neces-

sary to make any observations as to the propriety or impropriety of such a plan ; but I ask the house to consider what must have been the impression made upon the mind of a highly intelligent gentleman, by the disproportion of sexes in the penal colonies, which could induce him to recommend a scheme so utterly inconsistent with the ordinary notions with regard to marriage. The difficulties which beset the question of female transportation appear to me to constitute most grave and valid objections to the whole system of transportation ; but, in my humble judgment, they are not sufficient to justify the discontinuance alone of female transportation. For if this country continue to send thousands of its worst offenders to become first slaves, then citizens in Australia, they must be accompanied by women ; otherwise those disgusting vices, which there is every reason to believe prevail among the convict population, will fearfully increase, and spread their contamination throughout the whole community.

A short time ago an attempt was made to render the proportion of sexes in the penal colonies more equal, by means of free female emigration. This attempt completely failed ; partly from mismanagement. It was undertaken by some benevolent individuals, who were very ill qualified for the task. They formed a com-

mittee for the purpose, and obtained a grant of money from the government. Their secretary was one Mr John Marshall, who at the same time undertook the incongruous functions of chief agent for the selection of emigrants, and contractor for their conveyance to the colonies. In short, he became the committee itself. The result was, that the streets of Sydney and Hobart Town were crowded for a time with female prostitutes; and vice became, perhaps less disgusting, but more apparent. In this manner some forty or fifty thousand pounds of public money were expended. It is vain to think of altering the proportion of sexes in the penal colonies by means of good female emigration, as long as transportation continues; because respectable women will not consent to go alone to dwell among convicts.

Attempts have been made in the penal colonies to deny the demoralizing effects of transportation on the state of their societies; and resolutions to that effect have been passed at meetings composed of persons who considered that they had a deep pecuniary interest in the continuance of convict slavery. Such resolutions, unsupported by facts, and in direct opposition to the undoubted facts which I have stated, are of little value; unless they may be considered as evincing the moral insensibility of those who agreed to

them, and thereby proving the contrary of what was intended to be proved. There are, undoubtedly, amongst the officers of the government and the higher class of settlers many very respectable individuals ; nevertheless, it appears to me that the pernicious moral influence of transportation must be felt by all persons resident in those colonies. Let honourable gentlemen picture to themselves the life of a settler in a community where three-fifths of the population have been convicted of transportable offences ; where, to use the words of Mr Justice Burton, the main business of all seems to be the commission of crime and the punishment of it ; where some of the wealthiest inhabitants, the greater portion of the tradesmen, publicans, and innkeepers ; where almost all the servants in private families, the labourers in the fields, and the workmen on the roads ; where the police (as in Van Diemen's Land), the superintendents of the convicts, the gaolers, witnesses in the courts of justice, members of the jury on the trial, and even at one time magistrates on the bench, and instructors of youth in the schools, were or had been convicts. Thus, at every moment, and in every occupation of life, the settler is brought into contact with criminals. He is surrounded by crime, and haunted by the spectacle of cruel and degrading punishment. On the roads and in every public place he con-

stantly meets gangs of wretched beings in chains, displaying all the outward tokens of misery. The shopkeeper with whom he deals has probably been convicted of swindling. The servants who attend upon him are all convicts ; the women, at best, drunken prostitutes ; the men hardened ruffians ; in order to make them work, he must either connive at their vicious conduct, disobey the regulations of the government and pay them wages, or he must have constant recourse to a magistrate and to the infliction of the lash. Let honourable members reflect upon what may be the consequences of all the servants in a family being criminals, sometimes of the worst description. A gentleman, long resident in one of those colonies, informed me that he had on his establishment four convict servants ; that on inquiry he found that one had been transported for forgery, another for burglary, the third for an attempt at murder, and the fourth for some bestial offence. He was obliged to retain them in his service, because he could get no others ; and his friends were no better off than himself. It is easy to imagine what may be the consequences of such an establishment of servants ; and that crimes, unparalleled in this country, are sometimes perpetrated in the interior of the most respectable families. I will mention a horrid case, which occurred in the family of a wealthy

and respectable settler in Van Diemen's Land. It was discovered that his two daughters, one an infant of five years old, the other a girl of thirteen, had had repeated connexion, not with one, nor with two, but with all the convicts in their father's establishment, which was a large one. Three of the offenders were hung for rape on the infant, and all of them would have been executed had their master brought them to trial. Such was the statement made to the committee by a gentleman who was on the jury. He gave the details of the case, over which the decencies of the house compel me to cast a veil.

To conclude the description of the life of a settler in the penal colonies. In Van Diemen's Land the convict police may break into his residence at any hour of the night, on pretence of searching for a runaway convict; and may even arrest him on the public road, on suspicion of his being a prisoner of the crown. In New South Wales, if he be summoned to attend on a jury, he frequently finds that some of his fellow-jurymen have been convicts; that they sympathise with the criminal in the dock, and are determined at all events to acquit him. If he be a magistrate, his constant occupation is to order the infliction of the lash for trifling offences, and, in some instances, by personal inspection to ascertain that the convict scourger

does his duty with sufficient severity. In short, he dwells in a vast and ill-regulated gaol. He is himself, to all intents and purposes, a gaoler, and of the worst description ; because, induced to undertake that revolting task, not by any peculiar mental or moral fitness for its due performance, but by the insatiate desire of wealth. His object is not to execute the threats of the law, or to improve the offender entrusted to his care, but to extract the greatest amount of labour from a slave. This description of the position of a free settler in a convict colony is as true as it is disgusting. What must be its effect upon his character ? All experience proves that slavery of every kind has a bad effect on the character of the master ; that it tends to make him harsh, cruel, and tyrannical ; yet in ordinary slavery, as, for instance, in the United States, there are many causes which tend to mitigate its evil effects ; such as the permanent interest of the master in the slave ; the circumstance that master and slave are frequently brought up together in childhood, and the kindly feelings which thence ensue. None of these causes, however, can operate when the slave is a criminal, and the master has no permanent interest in him. The feelings on one side must be those of distrust and apprehension, on the other of hatred and fear. Hence it may reasonably be inferred that convict slavery must be the most injurious of all to the

character and temper of the master. It can hardly be doubted that it must be equally injurious to his children. Yet, strange to say, the contrary opinion has been held. It has been maintained that transportation encourages the virtuous sensibilities of the rising generation of the penal colonies ; that, as of old the Spartans were wont to intoxicate their Helot slaves in order to impress upon their offspring the hideousness of drunkenness, so, it is said, the perpetual spectacle of crime and punishment stimulates the moral energies of the youth of Australia, and renders them peculiarly averse to dishonourable and disgraceful conduct. This absurd doctrine, according to which a gaol would be the fittest place for the education of children, has been propounded in sober seriousness by some of the interested advocates of transportation. I need not stay to refute it.

But let me now ask honourable members what benefit of any kind, sort, or description, is derived from such a system as transportation ? Does it prevent crime ? Certainly not ; for it produces very little apprehension. Does it improve the character of the culprit ? On the contrary ; it leads to his utter demoralisation. Does it diminish the number of offenders ? No ; the abode of some of them is changed at an enormous expense, and a small portion of our burden of crime is transferred from England to

be increased a hundred-fold in Australia. Is it then a punishment of which a civilised nation may boast? Sir, it is unequal, uncertain, productive of more pain than terror, cruel, tyrannical, and disgraceful. Bad as it is as a punishment, it is still worse as a means of colonisation, for it has given birth to the most depraved communities in the universe. I may therefore, without presumption, assume that some change at least must be made in the existing system.

The question still remains, can any such alterations be made in transportation as shall render it a good punishment; or should some other punishment be substituted in its stead? In my humble judgment, the latter alternative ought to be adopted, and transportation should forthwith be abolished. In holding this opinion, I am sorry to be obliged to disagree with the noble lord the Secretary of State for the Colonies, (Lord John Russell), who has suggested the continuance of a portion of transportation. I say he has merely suggested it, because he has not pronounced a decided opinion on the subject; and I cannot help hoping that he may be induced to reconsider that opinion. The plan of the noble lord is contained in a letter from him to the late Secretary of State for the Colonies; which was laid, at the end of last session, on the table of the house. In that

document the noble lord states, with great force and ability, all the arguments against transportation; and concludes with recommending; first, the immediate discontinuance of the assignment system; secondly, that convicts sentenced to seven years' punishment shall cease to be transported. So far I entirely agree with him. But, lastly, he proposes that convicts sentenced to more than seven years' punishment shall be transported to Norfolk Island, where they are to undergo the severer portion of their punishment; subsequently they are to be removed to the public works in New South Wales. This plan is liable to the same objections which have been urged against the existing system of transportation; and of this the noble lord is well aware. For in the paper to which I have referred he has stated one of the most serious of those objections in the most explicit terms. In the twenty-first paragraph he says, besides other objections to the sending of convicts to Norfolk Island, there is this defect in the proposal, "that it would leave the main evil of transportation in full vigour. No one would advise the transport of criminals to the distance of Norfolk Island with the intention of bringing them back at the expense of the public to England. The consequence must be, that at the expiration of their sentences they will flock to the Australian

colonies, and render that noxious atmosphere more foul by the addition." And in the next paragraph he calls this a "fatal objection." It does, indeed, seem a fatal one; and I, therefore, presume to beseech the noble lord to reconsider this portion of his plan. But there are other, and equally fatal objections to it. I ask what description of punishment is to be inflicted upon convicts in Norfolk Island? Is the existing system to be continued there? I hope not, after the description I have given of it, and after the emphatic condemnation of it by the noble lord himself. But what other system can be established, which will preserve discipline among the convicts in those settlements? Herein consists the difficulty. The cruel system of the penal settlements did not result from any love of cruelty on the part of the officers who managed those settlements, but from the attempt to enforce discipline by means of coercion alone; hence frequent and severe punishments for the most trifling offences, and a state of things worse than death. But if severe coercion be not employed, all experience shows that the only other means of preserving discipline among large numbers of offenders, is by well-constructed gaols or penitentiaries. Will you build gaols and penitentiaries in Norfolk Island? Who are to build them? The convicts? But how is discipline to

be preserved amongst those convicts while the gaols are building? You cannot even have a hulk at Norfolk Island, for there is no harbour there except for boats. Discipline must, therefore, still be preserved by the lash. Then the horrors of Norfolk Island will have to continue for an indefinite period of time. And this I cannot believe that either the noble lord intends, or that the house will sanction. But I will suppose that it is your intention to build gaols and penitentiaries in Norfolk Island. Have you calculated the expense of building them in a small island, without timber, without harbours, in the midst of the Southern Ocean, one thousand miles from the abode of civilized man? The history of convict labour in New South Wales and Van Diemen's Land proves that it is only the commonest description of labour, and a very small quantity of that, which can be extracted from a criminal by punishment. In order to build, you must therefore have free skilled labourers of various descriptions, superintendents acquainted with building, and artificers of every sort. How will you get them, except at an enormous expense? And when you have got them, how will you persuade them to remain in your convict island, with the labour market of New South Wales, South Australia, and New Zealand open to them, offering to them the

highest wages, and temptations which you cannot permit in your penal settlement, without a subversion of penal discipline? In short, what inducements can you offer which shall tempt them to reside in a place, where life is so miserable, that even your own soldiers have lately risen in revolt? For these reasons I feel persuaded that the cost of building penitentiaries in Norfolk Island, with the assistance of convict labour, would far exceed the cost of building better penitentiaries in this country, and of maintaining, at the same time, the convicts, if necessary, in idleness.

Again, how are the home authorities to exercise the requisite degree of vigilant superintendence over these remote places of punishment? Why, I ask, have you lately appointed inspectors of prisons in this country, and directed them annually to report to Parliament? Because you have become aware that without constant inspection you cannot enforce proper penal discipline even at home, that you cannot trust to unobserved authority even at your own doors. Have you any reason for placing greater confidence in gaolers at Norfolk Island, or will you send inspectors yearly to the antipodes? And even then a year must elapse before a remedy can be applied to the best proved abuse.

Again, will you send women to Norfolk Island,

or is it to be inhabited only by men? Have you well considered this matter? Is it necessary to repeat the statements of the highest authorities, that wherever large numbers of male offenders are collected together in the penal colonies, there unnatural crimes are fearfully prevalent? The only means of preventing those crimes is by the complete separation of prisoners; and this cannot be effected till gaols are built.

What can be said in reply to these objections? The only argument I have ever heard in favour of the Norfolk Island plan is, that that island is said to possess the average degree of fertility common to places in the vicinity of the tropics; hence it is supposed that convicts might there raise the greater portion of their own subsistence, and that their punishment would be an economical one. Passing by the fatal objection to this plan, that it would require the employment of large bodies of convicts together in the fields, and consequently a system of coercion analogous to the present one; I utterly disbelieve that the attempt, if made, would be successful. First, because all similar attempts have hitherto failed; secondly, because the island in question is a very small one, not containing above 17,000 acres, most of which is dense jungle, and unfit for the growth of corn. But if this attempt do fail, or only partially succeed, reflect what will be the

cost of conveying supplies of food from Sydney to this place, which by nature is almost inaccessible. Remember, likewise, that the cost of subsistence and of every necessary in Sydney, is always much higher than in England. Judging from experience, a notion may be formed of what the expense of such a settlement is likely to be. In 1836, when the number of convicts did not exceed 1,000, the rations of salt meat alone in Norfolk Island cost 12,500*l.*; and, according to the commissariat officer resident there, the expense of that settlement to this country has been 30,000*l.* a-year, or about 30*l.* a-head for each convict. Now estimating the average duration of each convict's punishment there to be four years, and the cost of transport to and from Norfolk Island not to exceed 25*l.*, the whole expense for the punishment of each convict would be 145*l.*, which is one-half more than the sum for which the noble lord estimates that convicts could be kept in the most expensive penitentiaries, like that of Millbank. I, therefore, again presume to ask the noble lord to reconsider this portion of his plan : for I feel convinced that if it be adopted, it must ere long be abandoned, after a worse than useless expenditure of public money ; because, after an exhibition on a larger scale of that portion of the existing system which

all authorities concur in condemning as most foul and disgraceful.

It is necessary to say one word with regard to a totally new mode of punishment, which is suggested in the noble lord's letter to the late Colonial Minister. I mean what is called the social system of Captain Maconochie. According to that system criminals are to be associated together in small parties of seven or eight individuals, each of whom is to be held responsible, not for his own conduct, but for that of all the others with whom he may be associated. And thus it is expected, that with the usual opportunities for crime which attend on being at large under the transportation system, offenders would be induced to abstain from crime by their mutual regard for one another. This curious proposal outrages every law of human motives; it is in direct opposition to every principle of punishment, as a check to crime; it would almost seem to have been intended for a purpose of mockery. It is like bestowing riches on the profuse at the expense of the thrifty; like rewarding the reckless with the deserts of the careful. It is, in fact, to all intents and purposes, punishment of the innocent for the crimes of the guilty.

Sir, in recommending the immediate abolition of transportation, the House will expect that I

should offer some substitute in its stead. This I will now endeavour to do, entreating the house, however, to make allowance for the imperfect manner in which I am afraid I shall execute this attempt. I propose that convicts, instead of being transported, shall be punished in hulks, gaols, or penitentiaries to be built for that purpose. It is true that the hulks are not the best description of punishment, but they would afford an immediate substitute for transportation till penitentiaries can be built. They are, however, positively preferable to transportation; because they produce much more apprehension; because convicts in the hulks can be subjected to much more efficient superintendence and inspection than in the penal colonies; and lastly, because they are a somewhat less demoralizing, and, as I will presently show, a less expensive punishment than transportation.

The ultimate and permanent substitute for transportation should be one or more forms of the penitentiary system. Experience has shown that the best form is that which was first suggested by Mr Bentham, and recommended by him in preference to the formation of the penal colony of New South Wales. I mean the separate system. According to that system, offenders are kept entirely apart, and never allowed to associate together or to become acquainted; they

are visited by persons appointed for the purpose, whose duty it is to afford them religious and moral instruction; and they are permitted, not compelled, to work. This description of punishment has most of the qualities of a good punishment. It produces a great degree of terror. It is certain and equal. It is easily apportioned to various degrees of crime. It renders the commission of crime during the period of punishment almost impossible. It prevents the formation of those acquaintances amongst criminals during punishment, which are found to be one of the greatest sources of crime, and which generally lead to the permanent demoralisation of the culprit. It entirely severs for the period of punishment, all connexion between the offender and the rest of the criminal population, and thus breaks through his vicious habits. It tends by the opportunity afforded for reflection, and by intercourse with properly chosen instructors, to improve, as far as possible, the moral character of the offender. And, lastly, arbitrary punishments are not required in order to preserve discipline or enforce labour: labour, therefore, becomes a source of enjoyment instead of pain, and the culprit is thus best fitted for a subsequent life of honest industry.

The ordinary objection to the separate system is its expense. Though when a great moral

advantage is to be obtained, the question of expense is one of minor importance, yet it cannot be entirely overlooked. With regard, however, to the separate system, it can be proved that it would cost less than any of the proposed substitutes for the assignment system ; which I assume it is the intention of the government to persevere in discontinuing. It may even be shown, that it would not be more expensive than transportation has been. In proof of these positions, it will be necessary to state what appears, from the best authorities, to be the expense of various kinds of punishment. First, of transportation as it has existed. From the foundation of the penal colonies to the year 1836, the total expenditure of this country on account of these colonies has exceeded eight millions. During that period 98,000 convicts have been transported. Their punishment has, therefore, cost at least 81*l.* a piece up to 1836. At that time there were still 46,000 of these convicts under punishment ; the subsequent expenditure on their account, which there are no data for ascertaining, must be added to the sum just mentioned, in order to make up the total cost of their punishment. This proves at once that transportation has been one of the most costly descriptions of punishment, equal at least to the system of the penitentiary at Milbank. This fact may astonish honourable members.

It has escaped attention, owing to the circumstance that the expenditure on account of transportation is scattered over a variety of estimates. For instance, one portion of it is to be found in the navy estimates, another portion amongst the army estimates, the third amongst the ordnance estimates, and the remainder in the miscellaneous estimates. It has never been presented as a whole to the house previous to the labours of the transportation committee.

It may, however, be said, that great and unnecessary expense was incurred in the earlier periods of transportation, and that it has now become much less costly. I am by no means persuaded of the truth of this position. In the year 1836-7, the public expenditure on account of the penal colonies amounted to nearly half a million. It consisted of three items :

Transport of convicts to the penal colonies,	-	-	-	-	£73,000.
Expenditure on account of convicts in those colonies,	-	-	-	-	241,000.
Military expenditure,	-	-	-	-	174,000.
Total,	-	-	-	-	£488,000.

In addition to this sum, the colonial expenditure on account of the administration of justice, gaols, and police, was 90,000*l.* a year ; an enormous amount, as it is nine times as great in

proportion to population, as that of the United Kingdom for similar purposes. The greater portion of this expenditure evidently belongs to transportation. And it should be mentioned, that the Legislative Council of Van Diemen's Land refused the estimates for two-thirds of their portion of this expenditure, on the plea that it ought to be defrayed by this country. Supposing, however, that only one half of the military and judicial expenditure ought to be attributed to transportation, the average cost of each convict's punishment would be 8*l.* a year, exclusive of transport. If the average duration of a convict's punishment be taken at only seven years (the shortest period of transportation), and the cost of transport be reckoned at 15*l.* a piece, then the whole cost of a convict's punishment would be 71*l.* under the existing system of transportation and assignment.

If assignment be abolished, and the convicts be placed under the immediate superintendence of the colonial government, it appears from Sir G. Arthur's estimates that an additional expenditure would be required of at least 10*l.* a year for each convict; the whole expense of a convict's punishment would therefore be 141*l.* It should likewise be remarked, that at present the masters perform the duties of gaolers and guards to their convict servants; therefore, if those convicts be placed under

the immediate care of government, according to Sir Richard Bourke a large increase of military force would become necessary.

If the Norfolk Island plan be adopted, and even if, on account of the greater severity of that punishment, only four years be taken as the average duration of a convict's punishment, then, for reasons which I have already stated, the cost of this punishment would be 145*l.* for each convict, without including the cost of the subsequent portion of his punishment on the public works of New South Wales.

I have thus endeavoured to state what appears to me to be a fair estimate of the expense of the existing system of transportation, and of the two proposed modifications of that system; namely, the employment of convicts on the public works of the penal colonies, and the Norfolk Island plan.

I ask the House to compare these estimates with those furnished by the noble lord with regard to hulks, gaols, and penitentiaries. The noble lord reckons four years to be the average duration of punishment in gaols and penitentiaries. This, it should be remarked, is generally considered to be a punishment equivalent to fourteen years' transportation. Therefore my estimates, founded upon the supposition that seven years are the average duration of transportation, will be considerably too low as compared with

those of the noble lord ; which I will now read :
 “The average expense of each convict kept in the convict hulks in England for a period of four years would not be less than 30*l.* ; if kept in a house of correction, such as those of Wakefield or Coldbath Fields, would not be less than 55*l.* or 56*l.* ; and if kept in a penitentiary, similar to that of Millbank, would not be less than 96*l.*”

From these estimates it appears that if the punishments, of which I have been speaking, be arranged according to their expensiveness, the first and most expensive of all would be the Norfolk Island plan, which would cost at least 145*l.* for each convict. The next in the scale of expense would be the employment of convicts on the public works of the penal colonies ; the cost of which would amount to more than 141*l.* a convict. The third would be penitentiaries similar to that of Milbank, estimated by the noble at 96*l.* a convict. The fourth would be the existing system of transportation and assignment which costs at least 71*l.* a convict. The fifth would be houses of correction like those of Wakefield and Coldbath-fields, amounting to between 55*l.* and 56*l.* for each convict. And the last and cheapest would be the hulks, the expense of which is much under-estimated by the noble lord at 30*l.* a convict. None of these

descriptions of punishment precisely include the separate system, which I have proposed as the substitute for transportation. In the Glasgow Penitentiary, the only one in Great Britain on the separate system, the average cost of each convict's punishment has not exceeded 5*l.* a year, or 20*l.* for the four years. I may, however, suppose, on the authority of the prison inspectors, that the average cost of a convict's punishment in the best penitentiaries on that system, would be about 18*l.* a year, or 72*l.* for the four years. Thus it appears, that whatever description of penitentiaries be adopted, they would cost less than either of the proposed modifications of transportation.

These estimates only refer to the maintenance and superintendence of convicts; they do not include the cost of building the requisite gaols or penitentiaries. With regard to this subject, it should be borne in mind, that at present all the assigned servants, who constitute the greater portion of the convicts, are lodged, clothed, and guarded by their masters. If the assignment system be abolished (and there is no one, I presume, who will propose the continuance of that system, condemned as it is by the government and all competent authorities), then, whatever system be adopted, buildings must be erected to contain the convicts. What would be the cost

of such buildings? From the high price of labour, and of every material, they would be much more expensive in the penal colonies than in this country. I think it may be asserted, without exaggeration, that they would cost one half more in New South Wales than in England, and twice as much in Norfolk Island. From the best information which I have been able to obtain upon this subject, namely, from the prison inspectors, it appears that the most perfect description of penitentiaries might be built for about 120*l.* a cell. How many cells would be required? The noble lord estimates that if transportation were abolished, the number of convicts to be disposed of would be about four thousand a year. If the average duration of their punishment be four years, then ultimately sixteen thousand cells must be built. Sixteen thousand cells, at 120*l.* a piece, would cost 1,920,000*l.* This sum, at four per cent., would be equivalent to an annual expenditure of 76,800*l.* From these data it is easy to reckon the cost of the system proposed. The maintenance, superintendence, &c., of 16,000 convicts on the separate system, at 18*l.* a piece a year, would amount to 288,000*l.* a year. The interest of the money expended in building penitentiaries would be 76,800*l.* a year. Total cost of the separate system, 364,800*l.* a year. If honour-

able gentlemen would take the trouble of making similar calculations with regard to the Norfolk Island plan, or that of employing convicts on the public works of the colonies, they would find that, exclusive of the cost of building the requisite gaols, the annual expense of these punishments would be from 500,000*l.* to 560,000*l.* a year; or from 140,000*l.* to 200,000*l.* a year more than the separate system for the same number of convicts.

It appears to me, however, that a system of punishment is incomplete, which does not make some provision for the future career of the culprit at the termination of his punishment. The questions, "What is to be done with offenders at the expiration of their sentence?" "How are they to be prevented from returning to criminal pursuits?" are undoubtedly questions of considerable difficulty. Some persons consider that transportation solves these questions. This I deny. The effect of transportation is merely to remove offenders from England, and ultimately to turn them loose, unreformed in Australia; where they find a large class of criminals to associate with, and where, as has already been shown, they commit innumerable offences. What benefit, then, from such a system? No one would consider that any advantage would be obtained, if the means employed in diminishing

crime in Cornwall, for instance, augmented in a greater degree the number of offences in Yorkshire. This is, however, precisely the effect of transportation with respect to England and Australia. By this proceeding the sum total of offences in the British dominions is certainly not lessened but considerably augmented: and the legislature fails in obtaining the great object of punishment, which is to prevent crime, not merely to change the place where it is committed.

In order to prevent a criminal from perpetrating fresh offences, when the period of his punishment is over, his moral character ought to be improved by it, and he should be placed in a position in which he would not be exposed to strong temptations to relapse into criminal habits. In both these respects, the inefficiency of transportation has been demonstrated. On the other hand, it is acknowledged by every person conversant with the subject of penal discipline, that the separate system tends, more than any other punishment, to improve the moral character of an offender. It cannot, however, be denied, that if at the expiration of his sentence, a prisoner were turned loose in this country, with a character blasted by punishment, he would have great difficulty in finding employment, and might, in many cases, be com-

pelled to maintain himself by crime. To meet this difficulty, a plan has been proposed by the Archbishop of Dublin. The house is aware, that the Archbishop of Dublin has been of late years the great opponent of transportation; in his steps I have endeavoured humbly to follow; and to him I feel most deeply indebted for the advice which he has kindly and graciously afforded me with regard to this subject. The plan of the Archbishop of Dublin is contained in a letter inserted in the report of the committee. It is simply this: that liberated offenders, who would consent to emigrate, should be furnished with the means of conveyance to portions of the globe where they would easily find employment, and where their previous career would be unknown. They should on no account be all sent to the same place; because they would there form a criminal class, and thus reproduce many of the worst effects of transportation: and for this reason, they should not be permitted to go to the penal colonies for the next fifty years. By being dispersed amongst the moral and industrious, far removed from the scene of their transgressions, and without any known taint on their character, the good feelings and habits acquired in confinement would be strengthened, and a new career would be opened to them; which cannot be the case under the existing system of trans-

portation, or any of its proposed modifications. This plan, or some analogous one, seems to me to be a necessary accompaniment to a good system of punishment. It would entail an additional expense of about 15*l.* a head, at the utmost, for every prisoner who would consent to emigrate. How many would consent so to do it is impossible to estimate; but supposing all the 4,000, who it may be considered would annually become free, were to consent, their emigration would cost the country about 60,000*l.* a-year. This sum added to my previous estimate for the building of penitentiaries and the maintenance of 16,000 convicts in them, would make a total amount of 424,800*l.* a-year for the system proposed. The house will remember that I stated the cost of transportation to be at present 488,000*l.* a-year. Therefore the expense of the separate system, including the plan of the Archbishop of Dublin for providing for the subsequent career of the prisoner, would be 63,200*l.* a-year less than that of transportation. It is true that if transportation were abolished, the whole of the expenditure on account of the penal colonies would not at once be saved. There would, however, be a considerable immediate diminution of expense: first, of at least 73,000*l.* a-year for the transport of convicts: secondly, it is probable that by the end of four years, when the new system would come into full operation,

the convict and military expenditure might be diminished to one half its present amount. Now, making these allowances, and the proper calculation, the result would be, that the additional expense to this country from adopting the system I propose, would not exceed 144,000*l.* a-year, and be ultimately much less. The additional expense which would ensue from adopting the Norfolk Island plan, or that of employing convicts on the public works of the penal colonies, would, for reasons already stated, be much greater; though how much greater there are no means of calculating. In making these estimates, I have been most anxious not to mislead the house by putting down the expense of the separate system too low. I do not deny that penitentiaries might be expensive, but only assert that they would be less expensive than any of the proposed alterations in the existing system of transportation. I do not recommend them merely as being cheap punishments. I entreat the House not to be led away by any notion of an economical punishment; for, by its nature, punishment must be an expensive thing. All our attempts at economical punishment have hitherto signally failed; and the result has been bad and expensive punishment. It is a matter for sorrowful reflection, that if at the end of last century we had listened to the voice of that great philosopher, Bentham, we might ere this, for

a less expense than transportation has cost us, have had the best system of prison discipline in the world; and our secondary punishments would have been a model for mankind, instead of being, as now, a deep reproach to the empire. As a great change must immediately be made in our system of punishment; I implore the House to take warning from our predecessors, and not to commit errors similar to theirs, which would entail disgrace upon us with posterity.

The only other objection to the punishment of criminals at home, to which I need to allude, is an official one; and is frequently urged by persons connected with the administration of punishment. It is said, that if offenders were punished in penitentiaries, the Home Office would be beset with memorials for the mitigation of punishment; that those memorials, supported as they frequently would be by political partisans and other influential persons, could with difficulty be rejected; that a check is now put to inconvenient solicitations on behalf of convicts, by removing them to a distance; and that at present a considerable portion of an offender's punishment is inflicted before a remission of sentence can reach the penal colony. To this I answer, either the application for the mitigation of a particular convict's punishment is, or

is not, well founded. If it be well founded, then a grievous injustice is done to the convict by removing him to such a distance, that he cannot at once obtain that remission of punishment to which he is entitled. On the other hand, if the application for mercy is unfounded, then the conduct of a minister of the crown, who consents to a remission of sentence, is highly reprehensible. He is guilty of a great offence against society, by rendering punishment uncertain, and diminishing the force of the motives to abstain from crime. If it be said that such abuses will exist as long as the Secretary of State for Home Affairs possesses his present power of pardoning; then I reply that power ought to be limited, or placed in other hands; for so exercised, it is evidently inconsistent with the public good. And I cannot help thinking that the power of pardoning should be transferred to some judicial tribunal, which would act according to rule, and which should clearly and distinctly explain its reasons in each particular case for remitting or mitigating punishment. At present, the remission of a sentence is an arbitrary act of a minister of the crown, for which he assigns no reasons, and which every person interprets according to his own fancy. This tends to produce uncertainty as to the execution of the laws; and causes many an offender, who has powerful

protectors, to hope (justly or unjustly it matters not) for impunity. This subject well deserves the serious attention of Parliament; but it is one which I cannot enter upon at present. I will only observe again, that the plea that the Home Secretary would be compelled to abuse his power of pardoning with regard to prisoners in penitentiaries, is not a valid argument in favour of transportation, but furnishes good reasons for depriving him of that power.

The question may still be asked, what is to be done with the convicts in the penal colonies? This is a mere question of time. So much of the present penal system must be retained, as is necessary for the punishment of the offenders now in the colonies. By the termination of four years after the abolition of transportation, a very considerable portion of the convicts would either have become free, or half free, by obtaining tickets of leave. The remainder should be withdrawn from assigned service; the worst characters should be punished in the gaols or public works; and the well-conducted might be permitted to be at large under certain restrictions. These are questions, however, of mere administrative detail, which a person on the spot could easily solve. Send out a governor well acquainted with the subject; arm him with sufficient powers; make him responsible for bringing

the existing system to a satisfactory termination ; and four or five years would enable him to accomplish the greater portion of his task. Amongst the great evils of having once adopted any bad system, is the difficulty which attends the getting rid of it, the length of time which must elapse before all its pernicious consequences can be rooted out, and the excuse which is thus afforded for hesitation and delay. Remember, however, that in this case delay will only increase the difficulties of those who will have ultimately to abolish transportation ; and every ship-load of convicts which you send to those colonies will render (to use the Noble Lord's own expression) " their noxious atmospheres more foul ;" and consequently, their period of purification more remote.

I will conclude with a few observations on the effects of the abolition of transportation on the wealth of the penal colonies. The House is, without doubt, aware of the extraordinary and unparalleled rapidity with which those colonies have advanced in wealth ; and that that progress is mainly to be attributed to the fact, that the settlers have been abundantly supplied with convict slaves, who have enabled them to pursue various profitable branches of industry. Now that the government has determined to abolish the assignment system, the settlers will, in a

short period, be deprived of convict servants; and the prosperity of those communities will terminate, unless they be supplied with labour from other sources. The only source from which they can be beneficially supplied with labour, is by free emigration from this country. There are, however, several difficulties which beset the question of free emigration. Persons who are inclined to emigrate, have of late become acquainted with the unfortunate moral state of the penal colonies: many of them are, in consequence, unwilling to confound themselves with convicts by going to a convict settlement. I am not surprised at it. I cannot conceive how any respectable or virtuous man, how any person who is or intends to become the father of a family, in short how any individual in whom the thirst of gain does not outweigh every other and better consideration, can consent to become an inmate of one of these communities of felons, as long as there is any doubt as to the total discontinuance of transportation. To the honour, be it said, of the poorer classes of this country, there is a great and growing disinclination amongst them to emigrate to these colonies. This feeling prevails especially in Scotland. It exists in England, and has been excited in Ireland through the exertions of the Archbishop of Dublin, who has felt it to be his religious duty to discounte-

nance emigration to New South Wales. Therefore, with the discontinuance of the assignment system, the industry of the penal colonies will be materially injured, if not subverted, unless transportation to them be entirely abolished. And even this will not be sufficient, if the Norfolk Island system be adopted, and convicts be ultimately turned loose in New South Wales; a project to which, I may assert, the colonists are unanimously opposed, as perpetuating all the moral evils of the existing system, without any of the economical advantages of convict slavery.

Abolish transportation, and there will be no difficulty in procuring emigrants for those colonies. But still it may, and not unjustly, be objected to me by some persons who might ask, "Would you promote emigration to communities which you have described as so demoralized? Would you send innocent persons to places where they would be almost certain to be contaminated by intercourse with the guilty?" I answer, that the amount of emigration should be such as would, within a very short period, entirely swamp the convict population, and completely alter the moral character of those communities. If only a few thousand emigrants were sent out every year, a considerable portion would, in all probability, be demoralized. If, however, their numbers were to be reckoned by tens of thousands, the convict portion

of the population would soon become an inconsiderable minority. As this subject was discussed last year in a debate on the motion of my honourable friend, the member for Sheffield, I will not repeat the calculations, from which I inferred that if (supposing transportation abolished) 100,000 persons were to emigrate during the next four years to the penal colonies, those communities would be completely purified and amply provided with labour. They would then take their proper station amongst the colonies of England. They would be qualified to receive those free institutions without which they can never be well governed, but which it would be absurd to bestow upon them as long as they are gaols, or one-half of their population is composed of offenders.

The expense of such an amount of emigration would probably be 1,500,000*l.*; estimating, in accordance with the returns of the emigration commissioner, that 15*l.* a-head is the average expense of emigration to New South Wales. I will, however, suppose that 2,000,000*l.* would cover all possible expenses. This sum could easily be raised at four per cent. on the security of the sales of waste lands, provided there were the guarantee of an act of Parliament that it should all be expended in emigration. There would be ample security for the payment of the interest (which would amount to 80,000*l.*

a-year) out of the yearly sales of land ; for during the last three years the land fund of New South Wales has exceeded 130,000*l.* a-year ; and no one can for a moment doubt that it would greatly increase if emigration were carried on to the extent proposed. In support of this plan I refer honourable members to last year's report of the emigration commissioner, in which they will find that a similar plan of borrowing 2,000,000*l.* for the purposes of emigration, has been proposed and approved of by a large body of the most intelligent and extensive proprietors in New South Wales.

It is necessary that there should be the guarantee of an act of Parliament, that the whole of the loan should be applied to the purposes of emigration. First, because the perpetual changing of the Colonial Minister (we generally have a new one, unacquainted with his business, every nine months) renders it impossible to place any reliance in promises which his successor is not bound to keep. Secondly, because the Land Fund, which it was always supposed in this colony, and generally believed in this country, to be intended for emigration, has been appropriated by the government to other purposes. And the colonists most loudly and, in my opinion, most justly complain of this act as a most grievous abuse, as a sort of robbery.

From the commencement of the sale of lands in 1832, to the end of 1838, 571,000*l.* has been paid into the land fund. Of this sum not above 171,000*l.* have been employed in emigration. Of the remainder, 138,000*l.* may have been expended in the sale, management, &c., of the land. The residue, amounting to 262,000*l.* has been alienated from the purposes originally intended, and applied by the government to the support of the enormous police and gaol establishments, which transportation has rendered necessary; and which the colonists, with no small show of justice, contend ought to be defrayed by this country. Such was the state of the Land Fund in the beginning of 1839. Since that period the same system has been pursued; and I am credibly informed that the Land Fund has been completely exhausted by the drains upon it by the government. Indeed, in the middle of last year, the noble lord, the Secretary of State for the Colonies, was obliged to order the discontinuance of emigration to New South Wales. Therefore, unless a loan be raised, emigration to New South Wales must stop, to the most serious injury of that colony, as every person well acquainted with this subject will readily acknowledge.

I now thank the house for the patient manner in which it has listened to me. I have been

obliged, for fear of wearying the house, to pass over many points of considerable importance. I hope, however, that I have succeeded in proving the following positions. That transportation is a very bad punishment. That it is not susceptible of any improvement. That it ought, therefore, to be abolished. That the best substitute for it is penitentiaries. That the penitentiary system would be less expensive than any of the proposed modifications of transportation. That a large additional outlay of public money would not be required in order to establish penitentiaries, and to bestow upon this country the best system of secondary punishments in the world. And, lastly, for the sake of the moral well-being and economical prosperity of the penal colonies, that systematic emigration should be carried on in the manner I have proposed.

I will conclude by moving, "That the punishment of transportation should be abolished, and the penitentiary system of punishment be adopted in its stead as soon as practicable;" and "That the funds to be derived from the sales of waste lands in New South Wales and Van Diemen's Land ought to be anticipated by means of loans on that security, for the purpose of promoting extensive emigration to those colonies."

Great Britain. Commons, House of.

REPORT

• FROM THE

SELECT COMMITTEE OF THE HOUSE OF COMMONS

ON

TRANSPORTATION ;

TOGETHER WITH

A LETTER

FROM THE ARCHBISHOP OF DUBLIN ON THE SAME SUBJECT:

AND NOTES

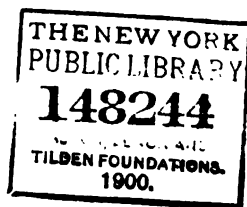
By SIR WILLIAM MOLESWORTH, BART.,

CHAIRMAN OF THE COMMITTEE.

LONDON:

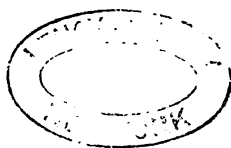
HENRY HOOPER, 13 PALL MALL EAST.

MDCCCXXXVIII.



LONDON:

PRINTED BY C. REYNELL, LITTLE PULTENEY STREET.



TO

THE INHABITANTS OF LEEDS.

ILL health prevented me, during a portion of the last Session of Parliament, from taking an active part in the business of the House of Commons: though on this account I was, unhappily, disabled from fully discharging my duties towards you, my constituents, yet I trust the accompanying pages may incline you to think that I have not been entirely idle, nor have completely lost sight of the objects for which you selected me as your Representative. They contain the Report of a Select Committee of the House of Commons on the nature and effects of the punishment of Transportation. It was in consequence of my motion last year that this Committee was appointed; I had the honour of being their Chairman, and of conducting their inquiries, which only terminated a short time before the close of last Session. I have caused their Report, chiefly written by myself, to be printed in a cheap form, in order that it may obtain a more extensive circulation than it would otherwise have. I dedicate it to you for two reasons :

First, that you may learn how inefficient, cruel, and demoralizing a punishment Transportation is; how utterly it fails in attaining the two grand objects of penal legislation, the prevention of crime by means of terror and the reformation of offenders; and how deplorable is the moral state of the communities to which it has given birth.

Secondly, that when, by the attentive perusal of these pages, you shall be convinced of the truth of the above statements, you may then be induced to exert yourselves to impress upon the Legislature the necessity of immediately abolishing a punishment in every way so disgraceful to a civilized and Christian nation; one which, if it be permitted to continue, after its character has been made known, it may then be doubted, and not without some show of reason, whether there is any amount of absurdity and wickedness, which may not obtain the sanction of a legislature.

I have published, likewise, a letter laid before the Committee, from the Archbishop of Dublin, who first, of late years, roused public attention to the nature of the punishment of Transportation, and to its effects on the penal colonies, and to whose admirable works on these subjects I have been most deeply indebted.

Cordially agreeing, as I do, in the sentiments contained in that letter, I now gladly avail myself of his Grace's high and undoubted authority to confirm my own opinions, and to impress those opinions, in the strongest manner, on your minds and on those of the public.

I need hardly say, that I entirely concur in all the recommendations of the Committee, except in the single one of establishing penitentiaries abroad; my reasons for such disapproval are stated in a note appended to that part of the Report in which the proposal is made.

I have the honour to be,

Your obedient humble servant,

WILLIAM MOLESWORTH.

PENCARROW,

Oct. 1, 1838.

Veneris, 24^o die Novembris, 1837.

Ordered, THAT a Select Committee be appointed to inquire into the System of Transportation, its Efficacy as a Punishment, its Influence on the Moral State of Society in the Penal Colonies, and how far it is susceptible of Improvement.

And a Committee was nominated of,—

Sir WILLIAM MOLESWORTH.

Lord JOHN RUSSELL.

Sir GEORGE GREY.

Mr LEADER.

Mr WARD.

Mr HAWES.

Mr ORD.

Lord Viscount HOWICK.

Sir THOMAS FREMANTLE.

Mr FRANCIS BARING (Thetford).

Sir ROBERT PEEL.

Mr CHARLES BULLER.

Lord Viscount EBBINGTON.

Sir CHARLES LEMON.

Mr FRENCH.

REPORT.

THE SELECT COMMITTEE appointed to inquire into the System of Transportation, its Efficacy as a Punishment, its Influence on the Moral State of Society in the Penal Colonies, and how far it is susceptible of Improvement; and who were empowered to report their Observations, together with the MINUTES OF EVIDENCE taken before them, to the House; have examined the Matters to them referred, and have agreed to the following REPORT:

IN order to comply with the Instructions of The House, Your Committee have instituted a laborious inquiry into the system of Transportation. That inquiry occupied the greater part of the last, and some portion of the present Session, during which period there have been examined no less than 23 persons, nearly the whole of whom have had personal, and many of them official, experience of the system of Transportation; not to mention a great mass of information acquired from official documents, furnished by the Colonial department.

For the sake of brevity and clearness, the result of the labours of Your Committee may be arranged under the following heads: first, as to the history, nature, and amount of the punishment of Transportation; second, as to the apprehension produced by the threat of Transportation, and its tendency to prevent crime in this country; third, as to the effects of Transportation on the character of those who have undergone that punishment; fourth, as to its influence on the moral state of society in the penal colonies; fifth, as to its economical effects on those communities, and to what extent their pecuniary interests would be affected by its continuance or discontinuance; sixth, as to the cost of the system of Transportation; and last, as to whether it be susceptible of improvement, and if not, what substitute for it might be adopted with advantage.

The punishment of Transportation is founded on that of exile, both of which are unknown to common law. Exile, according to the best authorities, was introduced, as a punishment, by the Legislature in the 39th year of Elizabeth; and the first time that Transportation was mentioned was in an Act of 18 Chas. I, c. 3, which empowered the judges to exile for life the moss-troopers of Cumberland and Northumberland, to any of his Majesty's possessions in America. The punishment, authorized by this Act, is somewhat different from the one now termed Transporta-

tion, inasmuch as the latter consists not only of exile to a particular place, but of compulsory labour there. It appears, however, to have been the practice at an early period to subject transported offenders to penal labour, and to employ them as slaves on the estates of the planters, and the 4 Geo. I, c. 11, gave to the person who contracted to transport them, to his heirs, successors, and assigns, a property and interest in the services of such offenders for the period of their sentences. The great want of servants in the colonies was one of the reasons assigned for this mode of punishment, and offenders were put up to auction, and sold by the persons, who undertook to transport them, as bondsmen for the period of their sentences. Notwithstanding, however, the dearth of labourers, many of the colonies, especially Barbadoes, Maryland, and New York, testified their disinclination to have their wants supplied by such means; and the opinion of Franklin, as to the letting loose upon the New World the outcasts of the Old, is too well known for Your Committee to repeat it. With the war of independence transportation to America ceased. Instead of taking that opportunity for framing a good system of secondary punishments, instead of putting in force the provisions of the 19 Geo. 3, c. 74, by which Parliament intended to establish in this country the penitentiary system of punishment, the Government of the day unfortunately determined to adhere to Transportation. It was not, however, deemed expedient to offer to the colonies, that remained loyal in America, the insult of making them any longer a place of punishment for offenders. It was determined, therefore, to plant a new colony for this sole purpose; and an Act was passed in the 24th year of George the Third, which empowered his Majesty in Council to appoint to what place, beyond the seas, either within or without his Majesty's dominions, offenders shall be transported; and by two Orders in Council, dated 6th Dec. 1786, the eastern coast of Av

and the adjacent islands were fixed upon. In the month of May 1787, the first band of convicts departed, which, in the succeeding year, founded the colony of New South Wales.

To plant a colony, and to form a new society, has ever been an arduous task. In addition to the natural difficulties arising from ignorance of the nature of the soil and of the climate of a new country, the first settlers have generally had to contend with innumerable obstacles, which only undaunted patience, firmness of mind, and constancy of purpose, could overcome. But, whatever the amount of difficulties attendant on the foundation of colonies, those difficulties were greatly augmented, in New South Wales, by the character of the first settlers. The offenders who were transported in the past century to America, were sent to communities, the bulk of whose population were men of thrift and probity; the children of improvidence were dropped in by dribblets amongst the mass of a population already formed, and were absorbed and assimilated as they were dropped in. They were scattered and separated from each other; some acquired habits of honest industry, and all, if not reformed by their punishment, were not certain to be demoralized by it. In New South Wales, on the contrary, the community was composed of the very dregs of society; of men proved by experience to be unfit to be at large in any society, and who were sent from the British gaols, and turned loose to mix with one another in the desert, together with a few task-masters, who were to set them to work in the open wilderness; and with the military, who were to keep them from revolt. The consequences of this strange assemblage were vice, immorality, frightful disease, hunger, dreadful mortality, among the settlers; the convicts were decimated by pestilence on the voyage, and again decimated by famine on their arrival; and the most hideous cruelty was practised towards the unfortunate natives. Such is the early history of New South Wales.

The present condition of a transported felon is mainly determined by the 5th Geo. 4, c. 84, the Transportation Act, which authorizes her Majesty in Council "to appoint any place or places beyond the seas, either within or without Her Majesty's dominions," to which offenders so sentenced shall be conveyed; the order for their removal must be given by one of the principal Secretaries of State. The places so appointed are, the two Australian colonies of New South Wales and Van Diemen's Land, the small volcanic island, called Norfolk Island, situated about 1,000 miles

to the eastern shores of Australia, and

Bermuda. Seventy-five thousand two hundred convicts have been transported to New South Wales since its settlement in 1787; on the average of the last five years 3,544 offenders have been annually sent there; and the whole convict population of the colony in 1836, amounted to 25,254 men, and 2,577 women; in all, 27,831. 27,759 convicts have been sent to Van Diemen's Land since the year 1817; the number annually transported there on the average of the last five years is 2,078; and the convict population in 1835 was 14,914 men and 2,054 women; in all, 16,968. At Norfolk Island the number of convicts, most of whom had been re-transported for offences committed in New South Wales, was, in 1837, above 1,200, and at Bermuda the number of convicts does not exceed 900.

The 5 Geo. 4, c. 84, likewise gives to the governor of a penal colony a property in the services of a transported offender for the period of his sentence, and authorizes the governor to assign over such offender to any other person. The only other Imperial statutes with regard to transportation which ought to be mentioned, are, the 30 Geo. 3, c. 47, which enables Her Majesty to authorize the governor of a penal colony to remit, absolutely or conditionally, a part or the whole of the sentences of convicts; the 9 Geo. 4, c. 83, which empowers the governor to grant a temporary or partial remission of sentence; and the 2 & 3 Wil. 4, c. 62, which limits the power of the governor in this respect. No reference need be made to other statutes, which merely determine for what crimes Transportation is the punishment. In New South Wales and Van Diemen's Land convicts are subjected to a variety of colonial laws, framed by the local Legislatures, established under the New South Wales Act, 9 Geo. 4, c. 83.

After sentence of transportation has been passed, convicts are sent to the hulks or gaols, where they remain till the period of their departure arrives. On board convict vessels the convicts are under the sole control of the surgeon-superintendent, who is furnished with instructions, as to his conduct, from the Admiralty. The precautions which have been taken against disease, and the better discipline now preserved in these ships, have applied an effectual remedy to the physical evils of the long voyage to Australia, and prevented the mortality amongst the prisoners, which prevailed to a fearful extent during the earlier periods of transportation. Little diminution, however, has taken place in those moral evils, which seem to be the necessary consequences of the close contact and communication between so many criminals, both

during the period of confinement previous to embarkation, and during the weariness of a long voyage.

As soon as a convict vessel reaches its place of destination, a report is made by the surgeon-superintendent to the governor. A day is then appointed for the colonial secretary, or for his deputy, to go on board, to muster the convicts, and to hear their complaints if they have any to make. The male convicts are, subsequently, removed to the convict barracks; the females to the penitentiaries. In New South Wales, however, regulations have lately been established, by which, in most cases, female convicts are enabled to proceed at once from the ship to private service. It is the duty of an officer, called the principal superintendent of convicts, to classify the newly-arrived convicts; the greater portion of whom are distributed amongst the settlers as assigned servants; the remainder are either retained in the employment of the government, or some few of them are sent to the penal settlements.

ASSIGNMENT SYSTEM.

Convicts assigned as Servants to Settlers.

In 1836 the number of assigned convicts in Van Diemen's Land was 6,475; in New South Wales, in 1835, the number was 20,207. In the earlier periods of the colony of New South Wales the supply of convicts so much exceeded the demand for their services by the settlers, that the Government used to grant certain indulgences to those settlers who were willing to maintain convicts. More recently, the demand has exceeded the supply; the obtaining convict labourers has become, therefore, to a certain degree, a matter of favour, which has given rise to complaints of abuse in the distribution, especially, of the more valuable convicts. All applications for convicts are now made to an officer, called the commissioner for the assignment of convict servants, who is guided in his distribution of them by certain Government regulations. Settlers, to whom convicts are assigned, are bound to send for them within a certain period of time, and to pay the sum of 1*l.* a head for the clothing and bedding of each assigned convict. An assigned convict is entitled to a fixed amount of food and clothing, consisting, in New South Wales, of 12*lbs.* of wheat, or of an equivalent in flour and maize meal, 7*lbs.* of mutton or beef, or 4½*lbs.* of salt pork, 2*oz.* of salt, and 2*oz.* of soap weekly; two frocks or jackets, three shirts, two pair of trousers, three pair of shoes, and a hat or a cap, annually. Each man is likewise supplied with one good blanket, and a palliasse or wool mattress,

which are considered the property of the master. Any articles, which the master may supply beyond these, are voluntary indulgences. The allowance in Van Diemen's Land differs in some particulars, and on the whole is more liberal.

Male assigned convicts may be classed under the various heads of field labourers, domestic servants, and mechanics: the services of the last class being of more value than those of the two former, are estimated in assignment as equal to those of two or more field labourers. In the assignment of convicts scarcely any distinction is made either on account of the period of the sentence, or on account of the age, the character, or the nature of the offence of the convict. The previous occupation of a convict in this country mainly determines his condition in the penal colonies. For instance, domestic servants, transported for any offence, are assigned as domestic servants in Australia: for the greater portion of such servants in those colonies, even in the establishments of the wealthiest classes, have hitherto been transported felons. They are well fed, well clothed, and receive wages from 10*l.* to 15*l.* a year, and are as well treated in respectable families as similar descriptions of servants are in this country. In many instances, masters have even carried to an illegal extent their indulgences to their convict servants.

Convicts, who are mechanics, are as well, if not better treated, than those who are domestic servants; for as every kind of skilled labour is very scarce in New South Wales, a convict who has been a blacksmith, carpenter, mason, cooper, wheelwright, or gardener, is a most valuable servant, worth three or four ordinary convicts; he is eagerly sought after, and great interest is made to obtain him. As a mechanic can scarcely be compelled by punishment to exert his skill, it is for the interest of the master to conciliate his convict mechanic, in order to induce him to work well; in too many cases this is effected by granting to the skilled convict various indulgences; by paying him wages, by allotting to him task-work, and by permitting him, after the performance of the task, to work on his own account; and, lastly, by conniving at or overlooking disorderly conduct; for the most skilful mechanics are generally the worst behaved, and the most drunken.

The condition, however, of by far the most numerous class of convicts, those who are employed as shepherds or neatherds (of whom in 1837 there were above 8,000 in New South Wales), and in agriculture generally, is undoubtedly inferior to that of a convict who is either a domestic servant or a mechanic; they are, how-

according to most of the witnesses, better fed than the generality of agricultural labourers in this country; most masters either pay them wages in money, or give them, instead of money, tea, sugar, tobacco, spirits, and other trifling indulgences.

On the whole, therefore, Your Committee may assert that, in the families of well-conducted and respectable settlers, the condition of assigned convicts is much the same as the condition of similar descriptions of servants in this country; but this is by no means the case in the establishments of all settlers. As the lot of a slave depends upon the character of his master, so the condition of a convict depends upon the temper and disposition of the settler to whom he is assigned. On this account Sir George Arthur, late Governor of Van Diemen's Land, likened the convict to a slave, and described him "as deprived of liberty, exposed to all the caprice of the family to whose service he may happen to be assigned, and subject to the most summary laws;" "his condition (said Sir George) in no respect differs from that of the slave, except that his master cannot apply corporal punishment by his own hands, or those of his overseer, and has a property in him for a limited period. Idleness, and insolence of expression, or of looks, anything betraying the insurgent spirit, subject him to the chain-gang or the triangle, or hard labour on the roads." Sir R. Bourke, the late Governor of New South Wales, has designated as a slave code the law which, in that colony, enables a magistrate, generally himself a master of convicts, to inflict 50 lashes on a convict for "drunkenness, disobedience of orders, neglect of work, absconding, abusive language to his master or overseer, or any other disorderly or dishonest conduct." For these offences the convict may likewise be punished by imprisonment, solitary confinement, and labour in irons on the roads. That this law is by no means inoperative is proved by the fact that, in 1835, the number of summary convictions in New South Wales amounted to 22,000, though the number of convicts in the colony did not exceed 28,000; that in one month in 1838, 247 convicts were flogged in that colony, and 9,784 lashes inflicted, which would give for the year 2,964 floggings, and above 108,000 lashes inflicted chiefly for insolence, insubordination, and neglect of work. In Van Diemen's Land the law which determines the condition of a convict servant is severer, and the number of summary convictions proportionately more numerous, than in New South Wales. In 1834, the number of convicts in Van Diemen's Land was about 13,000; the summary convictions amounted to about 15,000; and the number

of lashes inflicted was about 50,000. On the other hand, a convict, if ill-treated, may complain of his master; and if he substantiate his charge, the master is deprived of his services; but for this purpose the convict must go before a bench, sometimes 100 miles distant, composed of magistrates, most of whom are owners of convict labour. Legal redress is therefore rarely sought for, and still more rarely obtained by the injured convict.

With regard to the general conduct of assigned convicts, Your Committee would observe, that the misconduct and licentiousness of convict mechanics, and of convict domestic servants in the towns, were complained of by every witness connected with either penal colony. Mr Burton, Judge of the Supreme Court in New South Wales, in a charge delivered in 1835, attributed to convict domestic servants the number of burglaries and robberies which were committed in Sydney; and it was the opinion of most of the witnesses from New South Wales, that the assignment of convicts in towns should be immediately discontinued.

With regard to the general conduct of assigned agricultural labourers, there was a considerable diversity of opinion amongst the witnesses examined by Your Committee; convict labourers were said to behave ill or well, according as they were treated by their masters. The evidence, however, of Sir G. Arthur, appears to Your Committee to be conclusive on this point, with regard to which he wrote to the Secretary of State for the Colonies in the following terms:

"You cannot, my Lord, have an idea of the vexations which accompany the employment of convicts, or of the vicissitudes attendant upon their assignment. Their crimes and misconduct involve the settlers in daily trouble, expense, and disappointment. The discipline and control of the convicts in Van Diemen's Land is carried, perhaps, to a higher degree, than could ever have been contemplated. Many of the convicts have been greatly reformed, when in the service of considerate and judicious masters; but, with all this abatement, there is so much pecculation, so much insubordination, insolence, disobedience of lawful orders, and so much drunkenness, that reference to the magisterial authority is constant, and always attended with loss of time and expense to the settlers. There can be no doubt things appear better in the colony than they really are; for, in numberless instances, masters are known to submit to pecculation rather than incur the additional expense of prosecuting their servants. Two hundred felons, after having been for a long time under confinement in the gaols or hulks of England, and subsequently pent

up on board a transport, are placed in charge of the masters or their agents, to whom they have been assigned. The master has then to take the convict to his home (either to the other extremity of the island, a distance of 140 miles, or nearer, as the case may be); and well would it be if he could get him quietly there, but the contrary is of too frequent occurrence. Either with some money the convict has secreted, or from the bounty of some old acquaintance, the assigned servant, now relieved, for the first time for some months from personal restraint, eludes the vigilance of his new master, finds his way into a public-house, and the first notice the settler has of his servant, for whom he has travelled to Hobart Town, for whose clothing he has paid the Government, for whose comfort he has, perhaps, made other little advances, is, that he is lodged in the watch-house with the loss of half his clothing, or committed to gaol for felony.

"This is not in the slightest degree an overdrawn picture, but a plain matter of every day occurrence. A settler, newly arrived, thinks it a vexation not to be endured; but he soon falls into compliance with difficulties, which are visited alike upon all; and, finding there is no escape from them, he is forced to participate in the common mischief, which he cannot avert."

From the preceding description of the condition of assigned convicts the great inequality of that punishment must be apparent; but on this subject Your Committee would now wish to direct the attention of The House to the written opinions of some of the highest authorities in the penal colonies. Amongst others to that of the late Governor of New South Wales, Sir R. Bourke, who stated that:

"It is one of the most apparent and necessary results of the system of assignment to render the condition of convicts, so placed, extremely unequal, depending, as it must, on a variety of circumstances, over which the Government cannot possibly exercise any control. It would be quite impracticable to lay down regulations sufficient to remedy this inequality. The temper, character, station in society of the master, the occupation in which it might be found convenient to employ their servant, and the degree of connexion or variance that might happen to subsist between this and his previous habits, have an unmeasurable influence over his condition, both physical and mental, which no regulations whatever can anticipate or control."

The only other authority, with regard to the effects of the assignment system, which Your Committee deem it necessary to quote, is Captain Maconochie, secretary to Sir

John Franklin, the present Governor of Van Diemen's Land. In a report to the Government on the state of convict discipline in Van Diemen's Land, Captain Maconochie has stated that:

"The practice of assigning convicts to masters is cruel, uncertain, prodigal, ineffectual either for reform or example; can only be maintained in some degree of vigour by extreme severity; some of its most important enactments are systematically broken by the Government itself, which issues them; they are, of course, disregarded by the community. Others, when enforced, are deemed acts of individual oppression; and the state of society thus brought about becomes the most annoying, perplexing, unruly, complicated, and unnatural that can be conceived. The severe coercive discipline, which is its principal element, is carried so far as to be at issue with every natural, and in many cases even every laudable, impulse of the human mind. It defeats, in consequence, its own most important objects; instead of reforming, it degrades humanity, vitiates all under its influence, multiplies petty business, postpones that which is of higher interest, retards improvement, and is, in many instances, even the direct occasion of vice and crime."

Now, when it is considered that these are the deliberate opinions in writing of the late governors of the two penal colonies, and of the secretary of the present governor of Van Diemen's Land; and that in the year 1835, out of 27,000 convicts in New South Wales, 20,000 were assigned servants, that one half, at least, of the convicts in Van Diemen's Land were similarly situated; it will hardly be necessary for Your Committee to produce further proof, as could easily be done, to show, that the condition of a transported convict is a mere lottery; that it may and does range between the extremes of comfort and misery; that no single case can be looked upon as a type of the whole system, or as one from which any general conclusion can be drawn as to the condition of the assigned convict; that the most contradictory statements on the subject may be made with perfect truth, according as the person, who makes the statement, has seen one or other class, the convicts who are miserable or in a state of comfort; that, in short, to use the words of the late chief justice of Australia, "It frequently happens, that lesser offenders against the law come to be punished with disproportionate severity, while greater criminals escape with comparative impunity."

Assignment is the punishment for female, as well as for male convicts; the proportion of the former to the latter is about one

to ten. In respectable families the condition of convict women, as respects their food, clothing, and indulgences, is much the same as that of women servants in this country. Their general conduct, according to the testimony of every witness examined before Your Committee, is (to use the words of Sir E. Parry) "as bad as anything could well be;" he could "hardly conceive anything worse." At times they are excessively ferocious, and the tendency of assignment is to render them still more profligate; they are all of them, with scarcely an exception, drunken and abandoned prostitutes; and even were any of them inclined to be well-conducted, the disproportion of sexes in the penal colonies is so great, that they are exposed to irresistible temptations; for instance, in a private family, in the interior of either colony, a convict woman, frequently the only one in the service, perhaps in the neighbourhood, is surrounded by a number of depraved characters, to whom she becomes an object of constant pursuit and solicitation; she is generally obliged to select one man, as a paramour, to defend her from the importunities of the rest; she seldom remains long in the same place; she either commits some offence, for which she is returned to the Government; or she becomes pregnant, in which case she is sent to the factory, to be there confined at the expense of the Government; at the expiration of the period of confinement or punishment, she is re-assigned, and again goes through the same course; such is too generally the career of convict women, even in respectable families. It can be easily imagined what a pernicious effect must be produced upon the character of the rising generation of the Australian colonies, in consequence of the children of settlers being too frequently, in their tenderest years, under the charge of such persons. Many respectable settlers are, however, unwilling to receive convict women as assigned servants, when they can possibly dispense with the services of females; and in many instances convict men-servants are preferred for those domestic occupations which are performed in this country by women only. A considerable portion, therefore, of the female convicts are retained in the service of the lower description of settlers, by whom, it is notorious, that they are not uncommonly employed as public prostitutes.

Female convicts are allowed to marry free men, but they remain under the surveillance of the police, and are liable to be sent back to the factory in case of misconduct; marriages between female convicts and persons who have been convicts are encouraged; and the Government even permits the marriages of convicts in assigned

service, provided that the permission of the master is obtained, and a security given by the master to the Government, that the offspring would not become chargeable to the state. From the female factory at Paramatta most of the convicts, who are permitted to marry, obtain their wives. Such marriages among convicts rarely, however, turn out well; for the woman not unfrequently becomes the common property of the convict servants on the establishment, and gives rise to innumerable quarrels among the men, who purchase her favours generally by petty larcenies upon the master.

In delineating the characteristic features and effects of the assignment system, Your Committee have abstained from dwelling upon the enormous and complicated abuses, which at times have existed, and which perhaps even now, in spite of the utmost efforts of the colonial authorities, exist in various parts of that system; those abuses may chiefly be summed up under the following heads. First, the assignment of convicts to their wives or other relations that have followed them to the colony, with the proceeds of the offences for which they were transported, and upon which they have set up a profitable business, have become wealthy, and thus have held out to their acquaintances in this country strong temptations to pursue a similar career of crime; second, the employment of convicts as clerks in the various departments of Government, where they have had means of acquiring knowledge, of which the most corrupt and dangerous use has been made; third, the employment of convicts as clerks to attorneys, with free access to the gaols, which has given rise in the colony to an unparalleled system of bribery and connivance at crime; at one time even the clerk of the Attorney-general was a convict, and performed all the legal business of his master; and lastly, the entrusting to convicts of the education of youth in the various public seminaries; the connexion of convicts with the press; these, and other abuses, of which mention is to be found in every page of the evidence, appear, in a greater or less degree, to be inherent in the system of assignment.

Convicts at Bermuda.

Your Committee will next proceed to consider the condition of those convicts who are subjected to compulsory labour, under the immediate charge of the Government, either in the Australian colonies or at Bermuda.

With respect to Bermuda, Your Committee have but few observations to make. All convicts sent there are employed by the Government on the public works in

the dock yards; in number they amounted to about 900. The system of punishment pursued in that island is essentially different from that pursued in the penal colonies, and closely resembles that adopted in the hulks in this country. The convicts sent to Bermuda are selected as being the best behaved; they are kept apart from the free population; they are shut up in hulks during night; they are worked in gangs during day; they are always under the superintendence of free overseers; they are paid a small amount of wages, a portion of which they are allowed to spend, the remainder forms a fund for the prisoners, when they become free; at the expiration of their sentences they do not remain in Bermuda and form a criminal population there, but are sent back to this country; this punishment, then, does not possess what is supposed to be the great advantage of Transportation, namely, that it gets rid of the criminal population, and opens to them a new career in a new country, where there is not the same competition for employment as here, but where the great demand for labour enables the freed offender easily to obtain, if he please, a livelihood by honest industry.

CONVICTS UNDER THE IMMEDIATE CHARGE OF THE GOVERNMENT.

Road-Parties.

The convicts under the immediate charge of the Government in the Australian colonies may be divided into those who are retained in the service of the Government, merely because they are required as labourers, those who are returned by their masters as unfit for service, those who, having suffered for some offence committed in the colony, are retained for a certain period of probation in the employment of the Government, and those who, for crimes committed in the colonies, are worked on the roads generally in irons, or are sent to the penal settlements.

To commence with a description of the first class of convicts, those who are retained in the service of the Government, not as an additional punishment. On the arrival of a convict vessel in the penal colonies of Australia, an application is made to the assignment commissioner from the proper authorities for the number of the convicts who are required for the service of the Government. These convicts are selected without reference to their past conduct, except that prisoners who are described to be of very depraved character are not usually assigned to settlers, and remain under the charge of the Government; in some few cases directions to this effect are sent out from England. In Van Diemen's Land all mechanics are retained

in the service of the Government, and placed either in the engineer department or in the loan-gang; a few convicts likewise are selected out of every ship for the police. In the year 1835, out of 14,903 convicts in Van Diemen's Land there were, in the road department, 1,687; engineer ditto, 516; miscellaneous, including marine survey, &c., 716; constables and field-police, 538; total, 2,257. There are no returns of a similar description with regard to New South Wales. It appears, however, that the number of convicts retained (not as a punishment) on the public works in the latter colony has of late years considerably decreased; and most of those works are now performed by contract.

Convicts in the employment of Government are generally worse off than those assigned as servants; they are employed chiefly on the public works of the colony; some of them are, however, in situations of comparative ease, such as clerks, messengers, constables in the police, and so forth, in which services (Sir George Arthur says) it is a necessary evil to employ convicts. That it must be an enormous evil to employ convicts, or persons that have been convicts, in the police, especially in such communities as New South Wales and Van Diemen's Land, seems to Your Committee to be a self-evident proposition. Many of the convicts so employed appear to have been of the worst possible character; willing to take bribes; conniving at the offences of the convict population; when employed as scourgers, defeating the sentence of the law; sometimes bringing false accusations against innocent persons, other times screening the guilty from justice; committing outrages on female prisoners committed to their charge; and, in short, frequently defeating all the efforts of the Government to prevent crime. In the present state of Van Diemen's Land, Sir George Arthur thought it impossible to obtain a police of free emigrants: some three or four years ago he said that he took into the police a number of Chelsea pensioners and of free emigrants, but they proved worse than the convicts.

Large parties of convicts, called road-parties, are employed in making roads in New South Wales and Van Diemen's Land; these parties consist mostly of convicts who have been returned to Government by their masters as being unfit for service, and of convicts who, having been convicted of some offence in the colony, have been sent, on the expiration of their sentence, to work for a certain period on the roads before they were re-assigned. The conduct of this description of convicts is described in the charge, already referred to, of Judge Burton:—

"Judge Burton said, that he had been induced, by what had been proved before him in that court, gravely to consider the subject of convicts working in gangs out of irons; it was, he felt convinced, one of the most fruitful sources of crime in the colony. He had before him a return, from which it appeared that the number of convicts at this time employed upon the roads is 2,240, of whom 1,104 are out of irons; and when the jury considered who these latter men were, and what they had been; placed under the guardianship of a convict overseer; that they left their huts in any number, armed or unarmed, as they pleased; in short, from the evidence he had upon his notes respecting the conduct of the road-parties of the colony, it would appear that those establishments were like bee-hives, the inhabitants busily pouring in and out, but with this difference, the one works by day, the other by night; the one goes forth to industry, the other to plunder. To the carelessness or worse conduct of overseers he did attribute a vast proportion of the burglaries and robberies that were committed in country districts."

As the charge of Judge Burton must of itself be considered the best possible evidence which can be adduced upon this subject, it is unnecessary, in order to confirm the facts therein stated, to refer in detail to the unanimous testimony of every witness who has been examined. Every one of those witnesses spoke in the strongest terms of the disorders, crimes, and demoralization which were occasioned in the colony of New South Wales by the road-parties. Composed entirely of criminals, some of them of the very worst character (all of them ultimately degraded and demoralized by associating together), these parties were dispersed over a wide extent of country, under a most incomplete and inefficient system of superintendence, with overseers, most of whom had been convicts, and in many cases with convicts for the deputy overseers, to whose sole charge the road-parties were sometimes left for many days. Prisoners in the road-parties were sometimes in league with the convict servants of the neighbouring settlers, upon whose property they committed every description of depredation, the fruits of which were consumed in intoxication and other debauchery. The condition of convicts in the road-parties on the whole appears to have been a more disagreeable one than that of assigned servants; the former are subjected to a greater degree of restraint than assigned convicts. The nature of the work of convicts in road-parties, particularly that of breaking stones under a hot sun, was irksome, though the quantity of work which they performed was very slight. Nevertheless, the example of these

parties had so demoralizing an effect upon convicts in private establishments, that an idle and worthless convict often preferred being in a road-party; and convicts who disliked the masters to whom they were assigned, sometimes endeavoured to get themselves sent to a road-party, in hopes that, after the expiration of their punishment, they might be assigned to a better situation. Road-parties out of irons have been nearly discontinued in New South Wales; and the few which have been kept up since January 1837, are placed under such regulations as it is hoped will diminish, to a certain extent, some of the above-mentioned abuses. Many persons connected with that colony consider that, in its present state, the road-parties are a necessary evil, because, in their opinion, it would be impossible to obtain a sufficient supply of free labour to repair the roads, and free labourers would consider themselves degraded by an occupation that had been a punishment for convicts. Moreover, free labourers would not submit to the same degree of superintendence and discipline as convicts; and it is said they would probably, therefore, commit outrages as great, if not greater, than those committed by convicts. General Bourke likewise observed, that, "great as the complaints are which are made by a certain portion of the colonists on account of the crimes committed by the road-parties, still greater is the demand for good roads; and if those parties were broken up, they would probably be regretted in the colony."

In Van Diemen's Land the employment of convicts out of chains on the roads has not occasioned evils to the same extent as in New South Wales. This result is partly to be attributed to the better system of management which is in force in that colony, and partly to the nature of the general system of government which has been pursued in Van Diemen's Land, which, aided by the limited extent of the island, renders it easier for the Government to enforce its regulations, to preserve discipline, and to prevent escape from the road-parties, than in the other penal colony. For New South Wales is not only a penal, but a large and flourishing free colony. Though the free inhabitants are subjected, on account of dwelling there, to greater restraints than if they were residing in the mother country, and are obliged to submit to laws which (according to Sir R. Bourke) nothing but the peculiar case of the colony could render tolerable to Englishmen, yet they claim, and on the whole enjoy, most of the privileges of freemen in this country. Van Diemen's Land, on the contrary, was looked upon by Sir George Arthur as intended to be a vast gaol or penitentiary; and he contended

that the free settlers who had become its willing inmates, must abide cheerfully by the rules and customs of the prison. He had been long assiduously and successfully endeavouring to render transportation a painful punishment, and to make the convict feel his position to be a disagreeable and degraded one. In proportion to the success of his efforts the desire of the convict to escape has increased; and consequently it has been necessary to increase the severity of the police regulations, which affect all classes; and the settlers are subjected to restraints, and to a surveillance which would not be endured in a free settlement. In the 39th section of the Quarter Sessions Act, "Any person who shall in any manner shelter, protect, or employ any absconded offender whatever, or shall provide any such offender with lodging, clothes, tobacco, money, wine or any spirituous liquor (whether knowing or suspecting him at the time to be an absconded offender or not), shall forfeit and pay a penalty or sum of not less than 5s. nor more than 20*l*." The settlers are likewise completely at the mercy of the Government. They may be deprived on a sudden, at the will of the Government, of their assigned servants, whenever they are considered to be improper persons to have the charge of convicts, or when they contravene the police regulations; and as convicts are almost the only labourers which the settlers can obtain, the latter are entirely dependent upon the favour of the Government, and are obliged implicitly to obey its commands. The severity of the general system pursued in Van Diemen's Land enables the Government, therefore, to enforce stricter discipline amongst the road-parties in that colony than would be possible in New South Wales, without adopting a much harsher system with regard to these parties, or much severer police regulations with regard to the whole colony. The latter alternative seems hardly possible, and probably would not be endured in so wealthy and flourishing a community as that of New South Wales.

PUNISHMENTS OF CONVICTS.

Chain-gangs.—Penal Settlements.

The remaining classes of convicts whom Your Committee have to describe, are those suffering punishment for offences committed in the penal colonies. About one-sixth of the convicts in New South Wales and Van Diemen's Land come under this head.

Convicts, it has already been observed, are subjected to a particular code of laws, for neglect of convict discipline and other offences. Female convicts are punished by being sent to the penitentiaries, where, ac-

cording to the nature of their offences, they are either placed in solitary confinement with bread and water, or employed in picking wool or in breaking stones; some few are sent to the penal settlement of Moreton Bay. The labour imposed on women in the factory at Paramatta in New South Wales is said to be very slight, and many convicts prefer being sent there to being assigned. Assigned convict women, who are with child, are generally returned to the factory when near their period of confinement; they are placed in a separate class, intermediate between the punishment class and that of the women who are waiting to be assigned. This class appears to be a very numerous one, as, out of 500 females in the factory at Paramatta in 1836, 108 were nursing children; what portion of the remainder were pregnant women is not stated; at the same time there were in the factory 136 children between the ages of one and three years, the illegitimate children of convicts. The factory at Paramatta is, therefore, in reality a lying-in hospital; it appears to have been, up to a very late period, under very inefficient superintendence; but this has recently been changed. In the penitentiaries at Hobart Town and Launceston, in Van Diemen's Land, the female convicts are employed in spinning, picking wool, and needle work; the punishment is said to be somewhat severe.

Your Committee will delay their examination into the nature and number of the offences committed by male convicts to a subsequent portion of their Report. They will now proceed to examine merely the nature of the punishments inflicted, which, says Captain Maconochie, "are severe, even to excessive cruelty. Besides corporal punishment to the extent of 50 to 75 lashes, and even, in some rare instances, 100 lashes, solitary confinement, and months, or even years, of hard labour in chains (on the roads or at a penal settlement) are lightly ordered for crimes in themselves of no deep dye; petty thefts (chiefly in order to obtain liquor), drunkenness, insolence, disobedience, desertion, quarrelling among themselves, and so forth."

Most convicts have a greater dread of flagellation than of hard work in the road-parties or in the chain-gangs. Settlers generally prefer flagellation as a punishment for their convict servants; for though it excites revengeful feelings in offenders, it occasions less interruption of work. In the Appendix of the First Report of Your Committee ample proofs are to be found of the severity with which this punishment is inflicted in New South Wales. The condition of the road-parties has already been described. In 1834, the number of convicts in the chain-gangs of New South Wales

was about 1,000, and in those of Van Diemen's Land, in 1837, about 700; this description of punishment is a very severe one. Sir G. Arthur said, "as severe a one as could be inflicted on man." Sir R. Bourke stated, "that the condition of the convicts in the chain-gangs was one of great privation and unhappiness." They are locked up from sunset to sunrise in the caravans or boxes used for this description of persons, which hold from 20 to 28 men, but in which the whole number can neither stand upright nor sit down at the same time (except with their legs at right angles to their bodies), and which, in some instances, do not allow more than 18 inches in width for each individual to lie down upon on the bare boards; they are kept to work under a strict military guard during the day, and liable to suffer flagellation for trifling offences, such as an exhibition of obstinacy, insolence, and the like; being in chains, discipline is more easily preserved amongst them, and escape more easily prevented than among the road-parties out of chains. This description of punishment belongs to a barbarous age, and merely tends to increase the desperation of the character of an offender. The nature of the duty imposed upon the military in guarding the chain-gangs has the worst effects upon the character and discipline of the soldiers. Colonel Breton, who commanded a regiment in New South Wales, stated to Your Committee, that it produced the greatest demoralization among the troops, and the men became reckless; the demoralization arose, he said, partly from drunkenness, of which there was much amongst the troops in that country; he had no less than 16 soldiers transported to Norfolk Island, all of them from being drunk on sentry; demoralization was likewise produced amongst the troops by their intercourse with prison population, which could not be prevented, because many of the men found their fathers, brothers, and other relations amongst the convicts. The same gentleman stated that a convict assigned to a good master is quite as well off as any servant in England, and better off than a soldier; and that two of the men in his regiment deserted in order to be transported.

For crimes of greater magnitude convicts are re-transported. The penal settlements of New South Wales are Norfolk Island and Moreton Bay; at the former, the number of convicts in 1837 were about 1,200; in the same year the number at Moreton Bay did not exceed 300, as the establishment there has been considerably diminished, and only offenders under short sentences were sent there. Moreton Bay is likewise a place of punishment for convict females, who are re-transported for offences committed in the colony. The number of

convicts at the penal settlement of Van Diemen's Land, Port Arthur, was in 1835, 1,172. Norfolk Island is a small and most beautiful volcanic island, situated in the midst of the ocean, 1,000 miles from the eastern shores of Australia, and inaccessible, except in one place, to boats. Port Arthur is on a small and sterile peninsula, of about 100,000 acres, connected with Van Diemen's Land by a narrow neck of land, which is guarded day and night by soldiers, and by a line of fierce dogs. All communications, except of an official nature, between these places and the settled districts are strictly forbidden; the penal settlements of Norfolk Island and Port Arthur are inhabited solely by the convicts and their keepers. "The work appointed for the convicts," to use the expression of the chief superintendent of convicts in Van Diemen's Land, "is of the most incessant and galling description the settlement can produce; and any disobedience of orders, turbulence or other misconduct is instantaneously punished by the lash."

The condition of the convicts in these settlements has been shown to Your Committee to be one of unmitigated wretchedness. Sir Francis Forbes, chief justice of Australia, stated, in a letter to Mr Amos, on the subject of transportation, that "The experience furnished by these penal settlements has proved that Transportation is capable of being carried to an extent of suffering such as to render death desirable, and to induce many prisoners to seek it under its most appalling aspects." And the same gentleman, in his evidence before Your Committee, said, "That he had known many cases in which it appeared that convicts at Norfolk Island had committed crimes which subjected them to execution, for the mere purpose of being sent up to Sydney; and the cause of their desiring to be so sent was to avoid the state of endurance under which they were placed in Norfolk Island; that he thought, from the expressions they employed, that they contemplated the certainty of execution; that he believed they deliberately preferred death, because there was no chance of escape, and they stated they were weary of life, and would rather go to Sydney and be hanged." Sir Francis Forbes likewise mentioned the case of several men at Norfolk Island cutting the heads of their fellow prisoners with a hoe while at work, with a certainty of being detected, and with a certainty of being executed; and, according to him, they acted in this manner apparently without malice, and with very slight excitement, stating they knew they should be hanged, but it was better than being where they were. A similar case was mentioned by the Rev. Henry Stiles, in his

Report to Sir Richard Bourke on the state of Norfolk Island. And Sir George Arthur assured Your Committee that similar cases had recently occurred at Port Arthur. Sir Francis Forbes was then asked, "What good do you think is produced by the infliction of so horrible a punishment in Norfolk Island; and upon whom do you think it produces good?" His answer was, "That he thought that it did not produce any good;" and that, "if it were to be put to himself, he should not hesitate to prefer death, under any form that it could be presented to him, rather than such a state of endurance as that of the convict at Norfolk Island."

If these opinions require any confirmation, that confirmation is to be found in the circumstances which led to the passing of the Act of the Imperial Parliament in 1834, by which a court of criminal jurisdiction was established in Norfolk Island. That Act was passed at the request of the then Governor of New South Wales, Sir R. Bourke, who applied for it on the grounds (to use his own words) that "He had abundant reasons to suspect that capital crimes have been committed in Norfolk Island, from a desperate determination to stake the chance of capital conviction and punishment in Sydney against the chances of escape which the passage might afford to the accused, and to the witnesses summoned to attend the trial." Sir R. Bourke hoped, that if, by the establishment of a criminal court, offenders could be tried on the spot, crimes of the description to which he had referred would be less frequently attempted.

As might be expected amongst such desperate men, attempts at mutiny have not been uncommon. Norfolk Island was once taken by the convicts, and part of the guard killed. The last mutiny was in 1834, which was nearly successful; in the struggle that took place, nine convicts were killed; 29 were subsequently convicted for the capital offence, and 11 executed. The judge that tried these offenders, and the priest that was sent to afford them religious consolation in their last moments, have both recorded their feelings and opinions as to what they witnessed. Judge Burton stated, "that it had been his lot to visit one of those penal settlements (Norfolk Island); to see the convicts herding together, without any chance of improvement, without any religious instruction, was painful in the extreme. One man in particular had observed, in a manner which drew tears from his (Judge Burton's) eyes and wrung his heart, when he was placed before him for sentence, "Let a man be what he will when he comes here, he is soon as bad as the rest; a man's heart is taken from him, and there is given to him the heart of a beast."

Dr Ullathorne, a Catholic priest, Vicar-general of New South Wales and Van Diemen's Land, went from Sydney for the purpose of attending and consoling the condemned offenders above-mentioned. The following is the account he gave in his examination before Your Committee:

"On my arrival at Norfolk Island (he said) I immediately proceeded, although it was late at night, to the gaol; the commandant having intimated to me that only five days could be allowed for preparation, and he furnished me with a list of the 13 who were to die, the rest having been reprieved; I proceeded therefore to the gaol, and upon entering the gaol I witnessed a scene such as I never witnessed in my life before. The men were originally confined in three cells; they were subsequently assembled together; they were not aware that any of them were reprieved. I found so little had they expected the assistance of a clergyman, that when they saw me they at once gave up a plot for escape, which they had very ingeniously planned; and which might, I think, have succeeded, so far as their getting into the bush. I said a few words to induce them to resignation; and I then stated the names of those who were to die; and it is a remarkable fact, that as I mentioned the names of those men who were to die, they one after the other, as their names were pronounced, dropped on their knees and thanked God that they were to be delivered from that horrible place, whilst the others remained standing mute; it was the most horrible scene I ever witnessed. Those who were condemned to death appeared to be rejoiced. It had been a very common thing with us to find prisoners on their way to the scaffold thanking God that they were not going to Norfolk Island.

"The deep depravity of convicts in Norfolk Island is proverbial, and is constantly referred to by the papers, and likewise in the colony. There are designations, which show at once its enormity, in the mouths of prisoners; particularly the prisoners in New South Wales have generally a very great horror of Norfolk Island."

Dr Ullathorne likewise said:

"I was very much struck with the peculiar language used by the convicts at Norfolk Island. When a prisoner has been conversing with me respecting another individual, he has designated him as a good man. I suspected that he did not mean what he said, and on asking an explanation, he has apologised, and said, that it was the habitual language of the place, and that a bad man was called a good man; and that a man who was ready to perform his duty was generally called a bad man. There is quite a vocabulary of terms of that kind, which seems to have been invented to adar

themselves to the complete subversion of the human heart which I found subsisting. The outward appearance (he said) of the great body of convicts was very shocking. When I have gone down in the morning at six o'clock to my duties to the convict barracks, and have seen from 1,000 to 1,200 of them filing out to work, I have been very much struck with the general haggardness of their features, and the hard and fixed traces of crime upon their countenances."

Dr Ullathorne stated that latterly there had been considerable improvement amongst the convicts, in consequence of their receiving religious instruction; and Government has taken steps to supply the deficiency which formerly existed in this respect.

The late chief justice of Australia stated to Your Committee that at Norfolk Island unnatural crimes were suspected to be very common, and Your Committee are grieved to say that in this respect his testimony was too well confirmed by Dr Ullathorne, Messrs Backhouse and Walker, and by the Rev. H. Stiles and Mr Arnold, in their Report to Sir R. Bourke on the state of the convicts in Norfolk Island.

Your Committee will not lengthen this Report by describing the Penal Settlements of Van Diemen's Land, where the severity of the system is as great as, if not greater, than that at Norfolk Island, and where culprits are as reckless, if not more reckless, committing murder (to use the words of Sir George Arthur) "in order to enjoy the excitement of being sent up to Hobart Town for trial, though aware that in the ordinary course they must be executed within a fortnight after arrival." Your Committee, however, cannot help referring to a remarkable document with respect to a penal settlement in Van Diemen's Land, called Macquarie Harbour (which is now abandoned) it contains an account of the number and of the fate of the convicts who attempted to escape from Macquarie Harbour from 3d January 1822 to the 16th May 1827. From that return it appears that out of 116 who absconded, 75 are supposed to have perished in the woods; one was hanged for murdering and eating his companion; two were shot by the military; eight are known to have been murdered, and six eaten by their companions; 24 escaped to the settled districts, 13 of whom were hanged for bush-ranging, and two for murder, making a total of 101 out of 116, who came to an untimely fate.

TICKET-OF-LEAVE CONVICTS.

Emancipists. — Expirees.

Your Committee will now turn to the condition, in the penal colonies, of those

offenders against the laws of this country, who have either become free by the expiration of their sentence, or have obtained conditional pardons, or what is termed a ticket of leave. A convict, transported for seven years, obtains, at the end of four years; for 14 years, at the end of six years; and for life, at the end of eight years, as a matter of course, unless his conduct has been very bad, a ticket of leave, which enables him, according to certain regulations, to work on his own account. This indulgence on the whole has a very useful effect, as it holds out hope to a convict if he behave well, and is liable to be reassumed in case of misconduct. Ticket-of-leave men find no difficulty in obtaining work at high wages; and having acquired experience in the colony, they are frequently preferred to lately-arrived emigrants. They fill many situations of trust in both colonies; such, for instance, as constables in the police, overseers of road-parties, and chain-gangs; the better educated have been employed as superintendents of estates, as clerks to bankers, to lawyers, and to shopkeepers, and even as tutors in private families; some have married free women, are in prosperous circumstances, and have even become wealthy; and the real editor of one of the leading journals in the colony of New South Wales was a ticket-of-leave convict.*

* This case is of recent occurrence, and gives not an incorrect idea of life in New South Wales, and of what may be the career of an educated convict. The convict in question was named Watt; he was a Scotchman, and was first outlawed for some offence in his native country; he then became a clerk in the house of Todd, Morrison, and Co., and embezzled large sums from his employers; for this crime he was transported for fourteen years to New South Wales. On his arrival in that colony he was first sent to Wellington Valley, which was then a penal settlement for educated convicts. He soon, however, obtained permission to reside at Sydney; and shortly after the arrival of Sir R. Bourke as governor (1831), he was employed as clerk in the corporation office under the Archdeacon of the colony, and obtained a ticket of leave. When the corporation office was dissolved in 1834, his abilities were so well known, that he was immediately solicited by the editors of two newspapers to become their sub-editor. Watt accepted that situation in the office of the *Sydney Gazette*. This newspaper was published three times a week, and had a large circulation. It was under the management of a person of the name of O'Shaughnessy, who likewise had been a prisoner of the Crown, and had been assigned to the proprietor of the *Sydney Gazette*. O'Shaughnessy had first been employed on the paper as a reporter and casual writer, and subsequently, on the death of the proprietor, had become editor; as, however, he was a person of dissipated habits, Watt soon obtained entire control over the paper. The

Great abuses, undoubtedly, have existed in the granting of tickets of leave; nevertheless, on the whole, as has been already

doctrines most sedulously promulgated by Watt were to the effect that there was little difference, either in character or conduct, between the free emigrants and the convicts. This position, whether true or false, was very distasteful to a certain portion of the colonists; and various unsuccessful attempts seem to have been made to oblige Watt to quit his employment. Amongst others, he was accused of living in open concubinage with a female prisoner illegally at large. This is, by colonial law, an offence peculiar to the condition of the convict; for this offence Watt might, if convicted, have been deprived of his ticket of leave. Though there seems to be but little doubt that he had committed the offence in question, yet his enemies did not succeed in getting him punished. At last, however, Watt was tried before the Supreme Court on the singular charge of inducing an emancipated convict, who was the compositor in another paper, the *Herald*, to steal the proof copy of an article which had been put in type, but which had been suppressed. The article thus stolen was a libel on a gentleman of the colony, who had been a convict and was emancipated. To this person the libel in question had been forwarded by Watt through the colonial post, as Watt thought this public mode of transmission would constitute in a court of justice sufficient publication, so that an action of libel might be brought against the editor of the *Herald*. Watt's motive for thus acting was the desire of revenge, as the *Herald* and other newspapers had frequently denounced his connexion with the public press; and Watt, in return, selected this strange mode of punishing the editor of the former paper. On the receipt of the libel an action was immediately instituted, by the person to whom the libel was sent, against the proprietors of the *Herald*. The action, however, failed. About eighteen months afterwards the conduct of Watt in this transaction was discovered, and he was brought before the Supreme Court on the charge above-mentioned, of stealing the proof copy of the suppressed article in question. The jury are stated to have been composed chiefly of emancipated convicts, and the property was considered by them not of sufficient value to constitute felony; Watt was therefore acquitted. The judge, however, who tried him immediately represented to the Governor that Watt ought not to be permitted to remain any longer in Sydney, and he was in consequence removed to Port Macquarie, where educated convicts are now generally sent. There he married the widow of the former proprietor of the *Sydney Gazette*. He had not resided very long at Port Macquarie before he contrived (May 1836) to sow dissensions between some of the officers of Government, which led to a public investigation, to the dismissal of two officers, and to the cancelling of Watt's ticket of leave. Watt immediately absconded, and he was subsequently taken and flogged as a runaway. Similar cases may be narrated of the strange career which a fortunate convict may run in the penal colonies.

W. M.

observed, the institution of tickets of leave has a useful and beneficial effect. Your Committee, however, cannot help remarking that there is a strange legal absurdity connected with the system of granting tickets of leave, which ought to be removed. A convict was, by common law, as convict, subject to attain, and unable to acquire property, or to maintain a suit in a court of justice; this law was nearly inoperative, because it was all but impossible, according to the strict rules of evidence, to prove convict attain, as it was necessary to produce in court the record of conviction, and proof of identity of the person, said to be a convict. In New South Wales a Colonial Act was therefore passed, which rendered the fact of coming to the colony as a transport *prima facie* evidence of the person being a convict; at the same time, however, it extended the protection of the law to convicts under partial remission of sentence; this law is now repealed, or rather, is at variance with the express terms of the Act of the 2 and 3 Will. 4, c. 62; and the consequence is, that though a ticket-of-leave man is permitted to work on his own account, yet, being a convict, he cannot recover wages for work so done, or call in his debts, and is consequently liable to be defrauded; and cases of frauds of this description have not been uncommon.

In order to complete the description of the various conditions, in which persons, who have been transported, are to be found in the penal colonies, Your Committee must mention those who have obtained a conditional or absolute pardon or have become free by the expiration of their sentences: they are termed emancipists or ex-pirees. In this class are to be found some individuals who are very wealthy, and have accumulated immense fortunes; one is said to have possessed as much as 40,000*l.* a year. Every witness examined gave the same account of the mode in which these fortunes have been made. The emancipist who acquires wealth, in most cases commences his career by keeping a public-house, then lending money on mortgage; he then obtains landed property and large flocks, the latter frequently consisting of stolen cattle which he has purchased. As a case in point, Dr Lang and Mr Mudie mentioned that of the individual whom they stated to be in possession of 40,000*l.* a year. This individual was transported, about the end of the last century, for stealing geese on the commons of Yorkshire. He began his career as a prisoner in the employment of Government, in building the goal at Parramatta; at that time rum was occasionally allowed to convicts; he was, however, a very temperate man, and sold his rations of spirits; he thus accumulate some money, and was enabled, when 1

became free, to set up a public-house, and keep a gig and horse for hire. On one occasion he was hired to drive to Parramatta a female emancipist, who was likewise in possession of some property. This led to an acquaintance between them; he subsequently married her, and was enabled to increase his business considerably. At the period referred to, there was no regular market at Sydney. The farmers brought their loads of wheat and other produce to the town, and made exchanges with persons who paid them partly in money, partly in commodities which they required. The farmers were chiefly emancipists, who, at the expiration of their sentence, had obtained grants of land near Windsor: an ignorant and dissolute set of people, totally unreformed by their punishment, and unable to resist any temptation. They mostly frequented the house of the emancipist above-mentioned; there they would remain drunk for days, unconscious of what they had consumed or what they had given away. When recovered from the stupor of intoxication, they were frequently charged by their host for a sum far exceeding their means of payment. Credit was always given, on condition of signing warrants of attorney, which were at hand ready filled up. The instruments were drawn up by convicts, for in those days amongst that class only could persons be found qualified to perform the duties of the legal profession. When the farmers were once under the control of the individual whose career Your Committee are describing, they were obliged to return to his house, till the amount of debt was such that he feared lest it might surpass the value of their property. He then dispossessed them of their estates, and by this system of measures he had at one time obtained possession of a great proportion of the cultivated land in the colony of New South Wales. Such were the means, according to Dr Lang, by which both the emancipist in question, and many others, have acquired great wealth. The greater portion, however, of this class are labourers and small shopkeepers; and if industrious, they have every facility for making an honest livelihood, but as, on the expiration of their sentence, they are exposed to every description of temptation, the greater portion of them retain the habits of profligacy which first led them into crime, and become still more worthless and dissipated. Of the numerous crimes committed in the colony, the greater portion are perpetrated by this class. Among the emancipists and ticket-of-leave men are to be found the cattle-stealers, receivers of stolen goods, keepers of illicit spirit-shops, and squatters, of the number and extent of whose offences every witness spoke in the roughest terms. In Van Diemen's Land

the number of ex-convicts or emancipists probably does not exceed 3,000. Sir George Arthur described them as the worst class in the colony.

AMOUNT OF APPREHENSION PRODUCED BY THE PUNISHMENT OF TRANSPORTATION.

As your Committee have now completed the first head of their inquiry, as to the nature of the system of Transportation, the next subject for their consideration is, as to the apprehension produced by that punishment. Your Committee consider that in the preceding pages they have fully established the fact, that Transportation is not a simple punishment, but rather a series of punishments, embracing every degree of human suffering, from the lowest, consisting of a slight restraint upon the freedom of action, to the highest, consisting of long and tedious torture; and that the average amount of pain inflicted upon offenders, in consequence of a sentence of Transportation, is very considerable. The most important question, however, as to the efficacy of Transportation as a punishment, is not with regard to the actual amount of pain inflicted, but the amount which those who are likely to commit crime believe to be inflicted. It is proved, beyond a doubt, by the testimony of every witness best acquainted with the actual condition of convicts, and likewise by numerous facts stated in the evidence, that most persons in this country, whether belonging to the criminal population, or connected with the administration of justice, are ignorant of the real amount of suffering inflicted upon a transported felon, and underrate the severity of the punishment of Transportation. Nor is this to be wondered at, when it is considered that the penal colonies are 16,000 miles distant, and that the ignorant mass of the criminal population of this country are often misled by their evil passions to underrate the consequences of their evil deeds. On their arrival at the antipodes, they discover that they have been grievously deceived by the accounts transmitted to them, and that their condition is a far more painful one than they expected. For those convicts who write to their friends an account of their own fate are generally persons who have been fortunate in the lottery of punishment, and truly describe their lot in flattering terms; those, on the other hand, who really experience the evils of Transportation, and are haunted with "a continual sense of degradation," are seldom inclined to narrate their sufferings except when they have powerful friends from whom they may expect assistance. Numerous instances, likewise, were mentioned of convicts, who, degraded and demoralized by their punishment, have, from feelings of anger and revenge, indulged in the malicious satisfac-

tion of denying the efficacy of the law, and of braving those who had brought them to condemnation, by describing as pleasures the tortures they were enduring, by affecting indifference for a punishment which other criminals were actually committing murder and seeking death in order to avoid. Thus it is proved, by the most irrefragable testimony, that both those who are prosperous and those who are miserable, the drawers of prizes and the drawers of blanks in this strange lottery, influenced perhaps by that desire, common to human nature, of having companions and partakers whether of misery or of happiness, concur in tempting their friends in this country, by the most alluring descriptions, to come out and join them; thereby tending to diminish the little apprehension, if any, which is entertained by the lower orders for the punishment of Transportation. Both reason and experience, therefore, prove that the utmost apprehension which the generality of offenders feel for Transportation is little more than that they would experience for simple exile, which, next to Transportation, is, perhaps, the most unequal of punishments.

In order to produce any effect in preventing crime, the apprehension of the evil consequences of a punishment must, at least, be greater than the dislike of abstaining from crime, or of the consequences of so doing. The pain of exile depends upon the nature and strength of the ties which connect an offender with his native country. Exile is, therefore, a very severe punishment to persons who have strong affections for their native land, for their kindred, and for their acquaintances. Generally speaking, it is most dreaded by those offenders against the laws of their country who may be termed accidental criminals; that is to say, by persons who have not made a trade in crimes, but who have been induced to commit crimes by the impulse of the moment, or by some accidental combination of circumstances, or by some all-powerful temptation; and who may, in many cases be possessed of good moral feelings. On the other hand, exile is least dreaded by the most numerous class of offenders, by those who may be termed habitual criminals, and who compose what is properly called the criminal population of this country, namely, regular thieves, pickpockets, burglars, and all persons who gain their livelihood by the repetition of offences, and who consequently have lost all feelings of moral aversion to crime, and can only be restrained by fear. The apprehension which this class of offenders feel for the punishment of exile amounts merely to an aversion to breaking off their criminal habits and connexions in this country; on the other hand, to them the consequences of abstaining from a life of

crime would be, that they must equally separate themselves from their friends and associates of the criminal class in this country, and lead a life of honest industry in a country where wages are low and the price of food is high; to such criminals this course of life must seem almost as disagreeable as, if not more disagreeable than, the chance of exile to Australia, where they understand that wages are high, and that their condition will be a comfortable one; that at all events they will obtain plenty of food and clothing, and that they will meet a number of ancient companions in crime, some of them in the most prosperous circumstances. Consequently, amongst such individuals, especially amongst London thieves and the like, the threat of expatriation produces little or no motive to induce them to abstain from criminal acts. The punishment of exile is, however, sometimes viewed with apprehension by offenders from the agricultural districts, who entertain a vague and ignorant horror of being removed from the land of their birth; this feeling is one which Your Committee can hardly think it advisable to encourage, nor can they deem it wise to stigmatize emigration by associating with it the idea of degradation and punishment, when they take into consideration the advantages which it holds out to the poorer orders of the community, to those who are most likely to be exposed to criminal temptations. Moreover, the great and yearly increasing emigration to all the British colonies, even to the penal ones, must soon, at all events, deprive exile to Australia of all its imaginary terrors.

Transportation, though chiefly dreaded as exile, undoubtedly is much more than exile; it is slavery as well; and the condition of the convict slave is frequently a very miserable one; but that condition is unknown, and cannot be made known; for the physical condition of a convict is generally better than that of an agricultural labourer; the former is in most cases better fed and better clothed than the latter; it is the restraint on freedom of action, the degradation of slavery, and the other moral evils, which chiefly constitute the pains of transportation, and of which no description can convey an adequate idea to that class in whom Transportation ought to inspire terror. It was proposed by Sir G. Arthur and others to attempt to diffuse a knowledge of the hapless lot of some offenders, by means of pamphlets, tracts, pictures of convicts in irons, and under other punishments, to be published by the Government; by descriptions to be given by the judges on the bench, and by similar means. But, to which will the criminal population give greater credit; to the authority of the Government and the judge, whose duty they will think it is to exaggerate the evils of

the punishment, or to those other sources of information to which reference has been already made? And what description can a judge, or any other human being, give to an offender of his future fate as a convict? Who can tell what that lot may be? A criminal sentenced to Transportation may be sent to New South Wales, or to Van Diemen's Land, or to Bermuda, or even to Norfolk Island; in each colony a different fate would await him; his chance of enduring pain would be different. In New South Wales, or even under the severer system of Van Diemen's Land, he might be a domestic servant, well fed, well clothed, and well treated by a kind and indulgent master; he might be fortunate in obtaining a ticket of leave, or a conditional pardon, and finish his career by accumulating considerable wealth. Or he may be the wretched prædial slave of some harsh master, compelled by the lash to work, until, driven to desperation, he takes to the bush, and is shot down like a beast of prey; or for some small offence is sent to work in chains, or to a penal settlement, where, having suffered till he can endure no longer, he commits murder in order that he may die. Between these extremes of comfort and misery there are innumerable gradations of good and evil, in which the lot of a convict may be cast. But even if all this were known to the evil-disposed, as well known as it is to all who have perused the Evidence taken before Your Committee, the uncertainty of the punishment would destroy its effect, and prevent the suffering, which in many instances is inflicted, from producing apprehension. For it should be carefully borne in mind, that punishment is meant for those persons who are inclined to evil, and its effects are to be estimated with regard to them alone. Now, the mind of a person disposed to commit a crime is precisely that of a gambler; he dwells with satisfaction on every favourable chance, overlooks every adverse one, and believes that that event will happen which is most in accordance with his wishes. He hopes that if he commit a crime he will escape detection; that, if detected, he will escape conviction; that, if convicted, he will be pardoned, or get off with a few years in the hulks or Penitentiary; that, if transported, he will be sent to New South Wales; that, if sent to New South Wales, he will be as well off as are some of his acquaintances, and make a fortune. It is by diminishing the number of chances in the criminal's favour, not by increasing the amount of contingent evil; in other words, it is far more by the certainty than by the severity of punishment, that apprehension is produced, and thus Transportation sins against the first and acknowledged principles of penal legislation.

EFFECTS OF TRANSPORTATION ON THOSE WHO HAVE UNDERGONE THAT PUNISHMENT.

Reformation of Offenders.

The third subject for the investigation of Your Committee was the effects of Transportation on those who have undergone that punishment. It appears to Your Committee that it would be to maintain a position contrary to the experience of all nations in the science of punishment, for any one to assert that the compulsory labour of a number of offenders, whether in the private establishments of settlers, or on public works under the system hitherto pursued, can have any tendency to produce their moral reformation. Sir George Arthur indeed argued, that as it is for the interest of a master to have good servants, so it must be equally for a master's interest to convert his convicts into good servants, by attending to their moral reformation; and hence Sir G. Arthur inferred that, guided by self-interest, a master of convicts would steadily pursue that object. "Bentham's notions," said Sir George Arthur, "that gaolers should possess a personal interest in the reform of the convicts under their charge, is beautifully realized in Van Diemen's Land." In this position Sir G. Arthur is not only contradicted by numerous facts stated by himself, but in express terms by his own Attorney-general, who stated, "Reformation, at all events, if that be one object of punishment, is on the present plan hopeless; in the existing state of things, nearly all the tendencies of the plan are the other way." According to Captain Macnochie, secretary to Sir John Franklin, "by transportation the prisoners are all made bad men instead of good: it is shown," he said, "by the official reports transmitted with his papers, that scarcely any are reformed; and human nature does not stand still; if not improved, it gets worse." It would be superfluous labour to confirm the statements of these high authorities by the, almost, unanimous testimony of every witness examined. It is evident, that it must be the object of a master of convicts to get as much work out of his assigned servants as possible; for this purpose the process of moral reformation will generally be considered too long a one; the chance of success, even under the most perfect system yet discovered, is too uncertain, and the advantage, therefore, too remote, to render it the apparent interest of a master to adopt such a process, when his object can be obtained by the readier and simpler means of punishment, or by vicious indulgences, and when these fail, by returning the refractory convict to Government, and by obtaining another in his stead.

The influence of Transportation upon the moral character of those offenders, who are

not assigned as servants to settlers, but who are subjected to penal labour in the road-parties, chain-gangs, and in the penal settlements, may be judged of by the effects of the system of punishment which is pursued in the hulks in this country, and in the galleys in France. All these descriptions of punishment, though differing in degrees of severity, nearly resemble each other in their main features; all the criminals under punishment are herded together, mutually corrupting each other, and are constrained by fear alone to the performance of labour; and consequently, the moral reformation of an offender is seldom or never effected, as is abundantly proved in every part of the Evidence taken before Your Committee, and confirmed by the testimony of every person, who has carefully studied the subject of penal legislation. But Transportation is not merely inefficient in producing the moral reformation of an offender; it is efficient in demoralizing those whom accidental circumstances, more than a really vicious nature, have seduced into crime. It is hardly needful to point out how this must necessarily be the result of crowding together multitudes of offenders during the idleness of a long voyage; of a life in a colony, where vice is the rule and virtue the exception; where every description of offender and profligate finds himself kept in countenance by a majority, and where there is free interchange of every kind of vicious instruction.

Though under such a system of punishment as Transportation, the moral reformation of offenders is generally impossible, yet it might be supposed, that an assigned convict would be induced to abstain from disorderly conduct by the fear of immediate and severe punishment, and by the hope of a ticket of leave; that the ticket-of-leave man would be equally influenced by the fear of losing that indulgence; and that the expirée would find himself placed in a position, in which he would be removed from those temptations to which he is exposed in this country, to commit crimes against property; and thus it might be conceived that Transportation must, to a certain extent, indirectly conduce to the orderly conduct of offenders in their subsequent career. This supposition is not borne out by facts. It is stated by the late Attorney-general of Van Diemen's Land, that of the innumerable crimes committed in that colony, and brought before the superior courts, three-fourths are by offenders whose sentences have expired; and the same is the case with regard to New South Wales. On the whole it appears, from the Evidence taken before Your Committee, that assigned convicts conduct themselves better than ticket-of-leave men, and ticket-of-leave men than emancipists or expirées; and that when

Transportation does produce orderly conduct, it does so by imposing restraint, and by the apprehension it produces of immediate and severe punishment. The orderliness of a convict increases, therefore, with the immediateness and severity of the punishment, and with the general restraint to which he is subjected, and at the same time decreases with the increase of temptation. Thus, a convict is best behaved while at the penal settlements, and his conduct deteriorates in proportion as he obtains more and more freedom, and is worst when he has obtained liberty by the expiration of his sentence.

Notwithstanding the severity of the punishment at the penal settlements, offenders are not unfrequently sent a second time to Norfolk Island and Port Arthur; according to Sir George Arthur, convicts at Port Arthur frequently appeared to be reformed, but when they got to the settled districts, and had temptations placed before them, in a great many cases they relapsed. This result is in accordance with all experience in penal legislation. A system of punishment which relies for its efficacy solely upon the infliction of pain, without attempting to encourage and strengthen the moral feelings of a culprit, only hardens and brutalizes him, renders him mentally incapable of looking beyond the present moment, and confines his ideas to the feelings of the next instant; by these feelings alone his will is determined, and he indulges his vicious appetites, or refrains from gratifying them, in proportion as he expects their immediate results will be pain or pleasure. Not only is an offender, whose moral character is subverted by such punishments, incapable of moral restraint, but he only dreads punishment, and is acted upon by it when he sees the lash at hand, and suspended over his head; and prospective punishment has no effect in deterring him from the immediate gratification of his desires when exposed to temptation.

MORAL STATE OF SOCIETY IN THE PENAL COLONIES.

Criminal Returns.

The failure of Transportation, as a means of reforming offenders, will however be most completely established by the facts which Your Committee will now proceed to state in illustration of the fourth head of their inquiry as to the influence of Transportation on the moral state of society in the penal colonies. The following tables, compiled from the criminal returns contained in the Report of Your Committee, and in the Report on Convict Discipline in Van Diemen's Land, exhibit the weekly and yearly averages of summary convictions and summary punishments in Van Diemen's Land during the years 1884 and 1887.

REPORT FROM THE

AVERAGE of OFFENCES of each Description committed in 1834 and 1837.

	1884.	1887.
Average number of each description of offences brought weekly under the consideration of the police	37	33
Estimated number of each description of offences brought under the consideration of the police	80	17
Insubordination.	7	2
Absent without leave.	27	26
Disobedience of Orders.	12	22
Drunkenness.	60	88
Neglect of Duty.	17	15
Insolence.	12	15
Idleness.	3	2
Misdemeanor.	28	35
Penal Offences under Colonial Acts.	19	11
Assaults.	14	10
Sureties of the Peace.	5	7
Various other Charges not under the foregoing Heads.	29	35
TOTAL.	295	325
Cases under Examination.	1	1
	1,924	1,716

SELECT COMMITTEE ON TRANSPORTATION.

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AVERAGE NUMBER OF SUMMARY PUNISHMENTS INFLICTED IN 1884 AND 1887.

	Committed for Trial.	Extended Sentences.	Penal Settlements.	Chain-gangs.	Road-parties.	Treadwheel.	Cells.	Stocks.	Flogged.	Number of Lashes.	Admonished.	Discharged.	Fined under Colonial Acts.	Fined for Assault.	Houses of Correction.	Sureties.	Fined for Drunkenness.	Remanded.	Various Decisions not coming under preceding Heads.
1884.	21	5	2	21	17	3	14	—	28	968	32	24	16	4	6	5	41	11	27
Average number of summary punishments a week																			
Estimated number of summary punishments in the year }	1,092	260	104	1,092	884	156	728	—	1,456	51,976	1,664	1,249	882	208	312	260	2,132	572	1,404
1887.	7	7	2	21	27	6	48	5	18	572	31	25	9	5	10	7	55	—	39
Average number of summary punishments a week																			
Estimated number of summary punishments in the year }	364	364	104	1,092	1,404	312	2,496	260	936	29,744	1,612	1,300	468	260	520	364	2,860	—	2,028

In order to understand how enormous is the amount of offences summarily punished in Van Diemen's Land, it should be remarked, that in 1834 the number of convicts in that colony was 15,536, and of free persons 22,261; that in 1837 the convicts amounted to about 18,000, and the free population to about 28,000. From the above tables, it appears, that the number of persons brought before the police in 1834 amounted to about 15,000; in 1837 to about 17,000; the great majority of whom were convicts, and summarily punished. The number of lashes inflicted in 1834 were about 50,000, not including the number inflicted at Port Arthur; and in 1837 about 30,000. The number of free persons fined in 1834 for drunkenness was about 2,132; in 1837 about 2,860, nearly one-tenth of the free population: Captain Maconochie, however, states that this proportion is higher; that about 14 per cent. of the free population, or about one-seventh of them, are every year summarily convicted for that offence. From a series of Returns, similar to those referred to by Your Committee, with regard to summary convictions in Van Diemen's Land from 1824 to 1835 inclusive, Captain Maconochie has arrived at the following conclusions as to the progressive deteriorations of the free and convict population in that colony:

"Convictions for drunkenness were in 1824, as $3\frac{1}{2}$ to 100 of the whole population; and in 1832, as $9\frac{3}{4}$ to 100. Convictions under penal statutes of free persons in 1824 were as $5\frac{1}{2}$ to 100; and in 1832, as $7\frac{1}{4}$; and general misdemeanors by convicts in 1824 were as $11\frac{1}{4}$ to 100; and in 1832, as $43\frac{1}{2}$ to 100. After 1832 the returns are differently made, and the several heads of offence are multiplied, yet, with few exceptions, the same general fact is evident. Thus, drunkenness among the convicts in 1833-4-5 was as $4\frac{1}{2}$, $4\frac{1}{2}$, $4\frac{1}{2}$ respectively to 100. Among free people it was in the same years, as $11\frac{1}{2}$, $13\frac{1}{2}$, $14\frac{1}{2}$ to 100, while the tendency, as is well known, in English society, unless in peculiar circumstances, has been rather steadily, during the last ten or twelve years, towards sobriety. Felonies disposed of summarily were in like manner in 1833-4 and 1835, as $2\frac{1}{2}$, $4\frac{1}{2}$, $3\frac{1}{2}$ to 100; misdemeanors among convicts, as $7\frac{1}{2}$, $12\frac{1}{2}$, $11\frac{1}{2}$ to 100; among free people as $1\frac{1}{2}$, $5\frac{1}{2}$, $3\frac{1}{2}$ to 100; and what are called various offences not included under previous heads as $1\frac{1}{2}$, $3\frac{1}{2}$, $4\frac{1}{2}$ to 100.

"It may be said, however, observed Captain Maconochie, that the apparent increase shown in petty crime is, in reality, only an increase in its detection, arising from increased vigilance and efficiency in the police, or (in correspondence with the latter part

of a previous remark) an increase in the number of crimes on its records arising from an increase in the extent of its jurisdiction. But whatever weight may be attached to such considerations, they are very far from accounting for the whole facts. The excessive severity of the police sentences in Van Diemen's Land, and the inconvenience which they frequently inflict on masters, have together, on the contrary, a strong tendency to cause an increased impunity rather than certainty of punishment, at least among the convicts, a tendency consistent with my own observations, expressly stated in a memorial lately addressed to the lieutenant-governor by the Agricultural Society of Richmond, confirmed by the Quakers, Messrs Backhouse and Walker (Note G. sec. 47), and agreeing with the very low proportion of drunkenness above stated, as prevailing among the prisoners compared with the free population; and the latitude given to the police jurisdiction, though certainly great, is not such, probably, as even to counteract this influence in keeping down its lists of crime.

With regard to the number of convicts summarily punished, the following is the statement made by the chief police magistrate, by the principal superintendent of convicts, and by the director-general of roads and bridges, in a Report signed by their names:

"One fourth of the convicts have never been brought before a magistrate for misconduct, one half are tolerably well conducted, one-eighth are ill conducted, and the remaining eighth are very bad indeed. Singular instances of reformation are very rare; experience teaches us, that so long as convicts are under the severity of convict discipline, and the hope of indulgence, they behave well; but the extent of indulgence, namely, a pardon once obtained, and thus once freed from convict law, they too often return to their old courses; in fact, it is to be feared that reformation is outward only, although there are a few shining instances to the contrary; the only cause of this that we are aware of, is the depravity of human nature generally."

With reference to the convicts who were never brought before a magistrate, Captain Maconochie stated, that he had been informed by the chief police magistrate of Van Diemen's Land—

"That on comparing his (the chief police magistrate's) books, he had observed that almost a fourth of all the convicts who arrived in the colony served their sentences out without incurring additional punishment from the police; but that these persons were almost uniformly among the worst subjects after liberation; or, in other words, this experienced magistrate thus tes-

tifies: '1. That about this proportion of those subjected to the system which he administers (and administered, as I can most fully testify, as well as such an impracticable system can be administered by any one) are sufficiently pliable to submit to its requisitions and humiliations; but being in no degree morally improved by it, the instant they pass from under its pressure they yield with equal facility to the impulses to evil, amidst which they next find themselves. 2. That it is the more sturdy, manly, and eventually, as it proves, the better principled, who are thus chiefly punished by it. And 3. That a fair police character, under its arrangements, is no proof of individual merit, if, indeed, it be not rather the reverse of a recommendation.'"

Unfortunately Your Committee have not been able to obtain any Returns of any importance with regard to summary convic-

tions in New South Wales. In 1835 the number of convicts in that colony were about 28,000, and the summary convictions in the year were estimated to be about 22,000. In one month in 1833, as has already been stated, 247 convicts were flogged, and 9,784 lashes inflicted, which would make for the whole year, 2,964 floggings, and above 108,000 lashes inflicted.

The following Tables refer to the amount of grave crimes committed in the penal colonies, and which are cognizable only before the Supreme Court and Quarter Sessions. It should be remarked, that no convicts are prosecuted by the Attorney-general in Van Diemen's Land, except for crimes punishable with death; for all lesser crimes they are tried summarily before magistrates, so that generally offences committed by convicts do not appear in the Returns of crime as published.

NEW SOUTH WALES.

	1829.	1830.	1831.	1832.	1833.	1834.	1835.	1836.
Population	41,437	46,276	51,115	55,954	60,794	66,228	71,662	77,096
Number of convicts	—	—	—	—	24,543	—	—	27,831
Convicted of offences committed with violence.								
Murder	10	9	16	9	11	20	19	
Attempts to ditto	4	2	11	9	11	16	17	
Manslaughter.....	1	4	—	—	—	3	1	
Rape	2	2	2	1	10	5	13	
Unnatural crime	—	2	2	1	—	7	—	
Highway-robbery and bush-ranging }	33	24	28	36	56	111	89	
Burglary.....	29	25	29	16	22	29	25	
Piracy and revolt	5	—	—	23	—	6	—	
Misdemeanor and assault..... }	6	19	38	56	58	78	87	
Total	90	87	126	151	170	275	251	
Convicted of offences committed without violence.								
Arson	2	—	2	2	—	1	2	
Forgery	5	3	4	5	7	14	15	
Cattle, horse, and sheep-stealing..... }	14	18	17	27	15	62	67	
Perjury	1	—	4	1	8	9	3	
Larceny and receiving stolen goods... }	154	161	185	192	239	229	347	
Total	176	182	212	217	269	315	434	
GRAND TOTAL ...	266	269	338	368	439	590	685	
Sentences and Executions.								
Sentenced to death ...	69	44	82	63	63	80	86	
Executed	52	50	32	12	31	44	38	
Transported	118	125	116	146	171	317	398	
Proportion of offenders to population was as }	1:157	1:171½	1:151	1:152	1:138½	1:112½	1:104½	
Proportion of offences with violence to those without was as	1:2	1:2½	1:1½	1:1½	1:1½	1:1½	1:1½	

The proportion of convicted offenders to population in England and Wales, is as 1:850.
 The proportion of crimes with violence to those without, is as 1:8½.

VAN DIEMEN'S LAND.

—	1829.	1830.	1831.	1832.	1833.	1834.	1835.	—
Population	20,265	24,504	26,890	29,079	34,450	37,799	40,283	
Convict ditto	—	—	—	—	—	15,538	16,968	
Convicted of crimes against the person with violence.								
Murder	3	10	—	4	1	3	3	
Cutting with intent ...	—	6	2	18	10	10	6	
Piracy and mutiny ...	—	—	7	3	—	—	—	
Carnally knowing	—	6	2	3	—	—	—	
Bestiality	—	2	—	—	1	—	—	
Highway robbery	6	8	2	2	13	4	—	
Bush-ranging and } absconding	5	4	20	20	—	3	—	
Burglary	27	38	6	26	35	25	15	
Assault and misde- } meanor	9	20	40	27	22	21	27	
Total	50	94	79	103	82	66	51	
Convicted of offences against property with- out violence.								
Arson	—	1	—	1	—	—	—	
Forgery	—	2	5	3	6	14	6	
Cattle and horse- } stealing	11	2	6	4	18	16	14	
Sheep-stealing	17	6	1	10	12	20	14	
Perjury	—	1	2	2	1	—	—	
Libel and contempt ...	—	—	—	1	1	—	2	
Embezzlement	—	3	6	16	11	9	7	
Felony	16	9	5	3	19	14	23	
Receiving stolen goods	10	11	23	12	20	39	41	
Larceny and theft	89	115	160	142	192	286	99	
Total	143	150	208	194	280	398	206	
GRAND TOTAL	193	244	287	297	362	464	257	
Sentences and executions.								
Sentenced to death	40	66	31	82	88	78	51	
Executed	19	30	4	13	12	13	12	
Transported	130	131	159	171	213	238	151	
Proportion of offences } committed with vio- lence to those without }	1:3	1:1½	1:2½	1:2	1:3½	1:6	1:4	
Proportion of offenders } to population	1:105	1:100½	1:94½	1:98	1:95	1:81½	1:156	

The general tendency of the evidence indicates that unnatural crimes are far more common in the penal colonies than would be supposed from the number of convictions for those offences. This is to be attributed chiefly to the vast disproportion of sexes amongst the convicts, and to the difficulty which they experience in getting wives. In order to remedy this evil, Captain Macnochie proposed that "convict married women whose husbands refuse, after a given time, to join them, should become free to form other connexions." And Captain Macnochie alleged that "he could prove the expediency of this proposition by such statements of the consequence of the want both of husbands and wives in the penal colonies as would make the blood curdle." In the evidence taken before Your Committee several horrible cases were stated of the corruption of the young children of settlers by convict servants; which cases presented a fearful picture of the social evils of the assignment system, and of the depravity of the persons whom it introduces into the midst of respectable families.

In old communities, where there is a comparative want of employment, and profits are low, the amount of crime is not a perfectly sure test of the moral state of society, as the general uneasiness of the population gives birth to innumerable offences against property; but in those new communities, where there is a pressing demand for labour, and great facilities for acquiring wealth, crimes so numerous and so atrocious as those perpetrated in New South Wales and Van Diemen's Land, truly indicate the depth of their moral depravity. It is difficult, indeed, to form an adequate conception of the frightful degree of crime, which the above tables express; suffice it to say, that they show that, in proportion to the respective population of the two countries, the number of convictions for highway robbery (including bushranging) in New South Wales, exceeds the total number of convictions for all offences in England; that rapes, murders, and attempts at murders, are as common in the former, as petty larcenies in the latter country. In short, in order to give an idea of the amount of crime in New South Wales, let it be supposed that the 17,000 offenders, who last year were tried and convicted in this country for various offences, before the several courts of assize and quarter sessions, had all of them been condemned for capital crimes; that 7,000 of them had been executed, and the remainder transported for life; that in addition, 120,000 other offenders had been convicted of the minor offences of forgery, sheep stealing and the like, then, in proportion to their respective populations, the state of crime and punish-

ment in England and her Australian colonies would have been precisely the same.

The catalogue of convictions in New South Wales, by no means, however, exhausts the catalogue of crimes committed; for Judge Burton, in his charge to the grand jury of Sydney (to which document Your Committee have already referred), after giving a vivid description of "the crimes of violence, the murders, the man-slaughters and drunken revels, the perjuries, the false witnesses from motives of revenge or reward, which in the proceedings before him had been brought to light," after mentioning several cases of atrocious crimes, as characteristic of the general want of principle in the colony; after referring to the "mass of offences, which were summarily disposed of by the magistrates, and at the several police offices throughout the colony," spoke of the "numerous undiscovered crimes, which every man, who heard him, or to whom the report of his words should come, would at once admit to have occurred within his own circle of knowledge;" and then he said, "the picture presented to men's minds would be one of the most painful reflection; it would appear to one, who could look down upon that community, as if the main business of them all were the commission of crime, and the punishment of it; as if the whole colony were in motion towards the several courts of justice; and the most painful reflection of all must be, that so many capital sentences, and the execution of them, had not had the effect of preventing crime by the way of example."

Though the number of offenders convicted before the Supreme Courts is, compared to the whole population, nearly as great in Van Diemen's Land as in New South Wales, yet crimes committed with violence appear to be far less common in the former than in the latter colony. This difference in the criminal statistics of the two colonies is accounted for partly by the extreme vigilance of the police in Van Diemen's Land, which, according to Captain Macnochie, "tends to prevent the commission of great crimes, while the latitude given to its summary punishments makes it unnecessary to bring medium offences generally under the cognizance of the higher courts;" and, likewise, it should be remarked, that during the whole period referred to in these tables, and especially in the latter years, considerably above half the population in Van Diemen's Land have always been free; and of this amount at least one-half more were either persons connected with the Government offices, or wealthy settlers and their families; whilst in New South Wales, on the other hand, more than one-half of the population are, or have been, convicts. The

criminal returns, already referred to, likewise prove that crime has increased in New South Wales in a greater ratio than the population, and consequently in a far greater ratio than the number of convicts; thus indicating too plainly the progressive demoralization both of the bond and the free inhabitants of that colony. This result has either been denied or attributed to a variety of causes, by the members of the two powerful parties of Emancipists and anti-Emancipists, that divide the community of New South Wales. With regard to the former of these parties Your Committee will now make a few observations.

The emancipist party originated under the government of General Macquarie, in 1809. That gentleman had acted upon the principle, that the colony of New South Wales was founded for the sake of convicts, and not for emigrants; he endeavoured, therefore, to introduce the wealthier emancipists into the society of the officers, clergy, and other respectable inhabitants of the colony; and he even made magistrates of some individuals who had been convicts. This attempt gave rise to the two parties, of those who were for, and those who were against, the emancipists. The former party is a numerous one, as the number of emancipists in 1834 amounted to between 15,000 and 16,000, while the remainder of the free population did not much exceed 21,000; and of the latter number a considerable portion were probably connected, either by parentage or marriage, with persons who had been prisoners of the Crown. Many of the emancipists have, as has already been observed, acquired considerable wealth, and they form, therefore, a powerful political party, whose chief object is to maintain the position, that all the free inhabitants of the colony, both those who have been convicts and those who have not, ought to possess equal rights. This party, however, is not merely composed of persons that have been convicts, but it includes in its ranks a considerable portion of the free settlers, some of whom are persons inclined, by their habits, to associate with the criminal population, and to participate in the feelings of that class; others, however, are amongst the most respectable inhabitants of the colony, and on the ground of political principle, join the emancipists' party.*

* The anti-emancipist party ought likewise to be described; their object is to maintain an exclusive cast, by denying to persons who have been prisoners of the Crown some of the most valuable political rights. In the opinion of this faction the constitutional privileges of Englishmen should not be conceded to the whole free population of New South Wales, but be confined to those who have never been in bonds. Some of the members of this party

The members of the anti-emancipist party in New South Wales attribute the increase of crime in that colony partly to alleged relaxation of convict discipline under Sir Richard Bourke; partly to the action of the jury laws, which permit persons who have been convicts to become jurors; and, lastly, to the increasing number of emancipists.

The first-mentioned cause of the increase of crime in New South Wales refers to the Quarter Sessions Act, passed in 1833; by that Act the summary jurisdiction of single magistrates over convicts, which previously had been most undefined and extensive, was somewhat diminished, and a magistrate was prevented from inflicting more than 50 lashes for a single offence, instead of 150, which he might have given before at three separate inflictions. Many magistrates, who felt the diminution of their power as a grievance, bitterly complained of the Act in question, and contended that the limitation of their power had had the most pernicious effect upon the prison population, "whose characteristic depravity (they said) could not be checked without a corresponding severity in the law, and rigour in its administration." These complaints do not seem to Your Committee to have the slightest foundation in fact, and Sir Richard Bourke appears to have acted with wisdom, justice, and humanity in his treatment of the convict population. The severer sys-

are persons upon whose characters and dispositions the domestic slavery and penal nature of the colony has had the worst possible effect, by rendering them harsh, peremptory, and overbearing, and by converting them into cruel and hard-hearted slave-owners, with feelings of hatred, suspicion, and ill-disguised contempt for all who have had the misfortune of incurring the displeasure of the criminal tribunals of their country. There are undoubtedly, however, many persons of cultivated understandings and sound judgments, who belong, strictly, to neither of these parties, though generally somewhat biassed in favour of either the one or the other. To the opinions of these persons, on all subjects connected with the welfare of the penal colonies, the utmost consideration is due. Each of the parties alluded to has several organs in the public press, who carry on their political warfare with all the virulence peculiar to colonial factions. The licentiousness of the press in New South Wales, and in Van Diemen's Land, has been much complained of; in this respect, however, it does not appear to surpass the press of the mother country, and as it has been the only check upon the despotism of the Governors of the penal colonies, it has, upon the whole, rendered great service to those colonies. In Van Diemen's Land there is not at present any emancipist party, that class being as yet few in number and without wealth or influence.

W. M.

tem of summary jurisdiction pursued in Van Diemen's Land has, perhaps, slightly diminished the amount of crime cognizable by the superior courts, and diminished the number of grave offences; but it has produced this result, by erecting a number of petty offences into crimes.

With regard to the second alleged cause of the increase of crime, namely, the jury laws, Your Committee need hardly repeat, that the well-proven effect of Transportation is to demoralize, not to reform an offender; therefore, in a community like New South Wales, wherein so large a proportion of the population are persons who have been convicts, to permit such persons generally to sit upon juries must evidently have an injurious effect. This fact, were it a matter of doubt, is abundantly established by the testimonies of Judge Burton, Mr Macarthur, and others. Your Committee, however, must observe, that under a good system of punishment, an offender should, at the expiration of his sentence, be considered to have atoned for his crimes; and he should be permitted to commence a new career without any reference to his past one. In their opinion the effect of preventing an offender from acquiring civil and constitutional rights after the expiration of his sentence, is in reality to give a most unjust, uncertain, and unequal extension, to his punishment, to render him infamous in the eyes of his fellow-citizens, to degrade him in his own estimation, and to drive him back to crime.

With regard to the last alleged cause of the increase of crime, namely, the increasing number of emancipists; little doubt, Your Committee think, can be entertained of the pernicious consequences of annually turning loose a number of unreclaimed offenders on so small a community as that of New South Wales. All the best informed witnesses concur in stating, that by far the greater portion of the offences brought under the cognizance of the superior courts, are committed by persons who have been convicts.

One of the supposed advantages of Transportation is, that it prevents this country from being burthened with criminal offenders after the expiration of their sentences. It is now, however, evident that Transportation does not tend to diminish the sum total of offences committed in the British dominions; it may, perhaps, relieve Great Britain and Ireland from a portion of their burthen of crime; though, from the little apprehension which Transportation produces, that fact may be reasonably doubted. On the other hand, it only transfers and aggravates the burthen upon portions of the British dominions, which, like New South Wales and Van Diemen's Land, are least able to bear it.

In order to ascertain the kind of community which has been produced in the penal colonies under the influence of Transportation, Your Committee have collected, with regard to their population, the following statistical returns, which, they believe, are accurate. Since the year 1793, 74,200 convicts have been transported to New South Wales, of whom, not more than 10,000 were females; from 1825 to 1836 there have been 45,029 immigrants into that colony; yet by the census of 1836 its population did not exceed 77,096, not more, probably much less, than three-fifths of the number of persons that have landed at Port Jackson during the last half century. This result is mainly attributable to the disproportion of the sexes, occasioned by Transportation, the evil effects of which disproportion upon the moral state of the penal communities Your Committee think can hardly be over-rated. The number of convicts transported to Van Diemen's Land since 1817 have been 27,759, of whom 2,974 were women. The population of the colony in 1834 was 40,268, of whom 11,482 were women. The disproportion of sexes is about the same in both penal colonies; it exists chiefly amongst the convicts, and is most remarkable in the country districts.

	NEW SOUTH WALES. Census 1836.			VAN DIEMEN'S LAND. Census 1834.			
	Men.	Women	Proportion.	Men.	Women	Proportion.	
In the Towns { Free ...	12,443	9,491	4:3	7,561	5,894	7:5	{ Hobart Town & Launceston.
{ Convict	5,210	1,596	3 $\frac{1}{2}$:1	4,688	1,218	3 $\frac{1}{2}$:1	
Agricultural { Free ...	16,611	9,449	5 $\frac{1}{2}$:3	5,267	3,170	5:3	{ Military at penal settle- ments.
{ Convict	16,361	902	17:1	6,914	485	17:1	
Free on the Sea, at Pen- al Settlements, &c. }	1,231	40	-	1,059	364	-	{
Convicts at Penal Set- tlements, on Road- parties, &c. }	3,688	79	-	3,312	351	-	
Total	55,539	21,557	2 $\frac{1}{2}$:1	28,801	11,492	2 $\frac{1}{2}$:1	

In 1836 the free population of New South Wales amounted to 49,255, of whom about 17,000 had been convicts. In 1834 the free population of Van Diemen's Land did not exceed 23,315, of whom about 3,000 were ex-convicts.

Of the state of society in the towns of these colonies, a general idea may be formed from a description of Sydney, according to the accounts given of it by its chief police magistrate, and by Mr Justice Burton. In 1836 Sydney covered an area of about 2,000 acres, and contained about 20,000 inhabitants; of this number 3,500 were convicts, most of them in assigned service, and about 7,000 had probably been prisoners of the Crown. These, together with their associates amongst the free population, were persons of violent and uncontrollable passions, which most of them possessed no lawful means of gratifying; incorrigibly bad characters, preferring a life of idleness and debauchery by means of plunder, to one of honest industry. Burglaries and robberies were frequently perpetrated by convict servants in the town and its vicinity, sometimes even in the middle of the day. No town offered so many facilities for eluding the vigilance of the police as Sydney did. The unoccupied bush, near and within it, afforded shelter to the offender, and hid him from pursuit. He might steal or hire a boat, and in a few minutes place an arm of the sea between himself and his pursuers. The want of continuity in the buildings afforded great facilities for lying in wait for opportunities of committing crime, for instant concealment on the approach of the police, and for obtaining access to the backs of houses and shops; and the drunkenness, idleness, and carelessness of a great proportion of the inhabitants afforded innumerable opportunities and temptations, both by day and night, for those who chose to live by plunder. The greater portion of the shopkeepers and of the middling class had been convicts, for the tradesmen connected with the criminal population have an advantage over free emigrants. Those of the emancipists who were possessed of property had generally acquired it by dishonest means, by keeping grog-shops, gambling-houses, by receiving stolen goods, and by other nefarious practices; they led a life of gross licentiousness; but their wealth and influence were such that one-fourth of the jurors who served in the civil and criminal courts during the years 1834, 1835, and 1836, belonged to their number. More immorality prevailed in Sydney than in any other town of the same size in the British dominions; there the vice of drunkenness had attained its highest pitch; the quantity of spirits consumed in Sydney was enormous; even throughout the whole

of New South Wales the annual average, for every human being in the colony, had reached four gallons a head. With a free population, little exceeding 16,000, Sydney contained 219 public houses, and so many unlicensed spirit shops, that its chief police magistrate felt himself incompetent to guess at the number. The greater portion of these public houses were kept by persons who had been transported convicts, and who were notorious drunkards, obscene persons, fighters, gamblers, receivers of stolen goods, receivers and harbourers of thieves, and of the most depraved of both sexes; and who existed upon the depravity of the lower orders. Such, according to the authorities already quoted, are the towns to which Transportation has given birth; and such are the inmates furnished to them by the criminal tribunals of this country.

In the country districts of New South Wales and Van Diemen's Land the proportion of convict men to women is as 17 to 1. As the greater portion of the agricultural labourers belong to the criminal population, they constitute a peasantry unlike any other in the world; a peasantry without domestic feelings or affections, without parents or relations, without wives, children, or homes; one more strange and less attached to the soil they till, than the negro slaves of a planter. They dwell, crowded together, in miserable huts; the hours of recreation, which they can steal from the night, are usually spent in the unlicensed spirit-shops to be found in the vicinity of every estate. In these places, kept by some ticket-of-leave man or emancipated convict, the assigned servants of settlers generally purchase the means of gratifying their appetites for liquor, gaming, and every species of debauchery, by the proceeds of their depredations on the flocks and herds, and other property of their masters. The vicious habits of the lower orders, the manner in which they are permitted to live and associate with the convicts, the inefficiency of the police, and the general want of principle in the colony of New South Wales, are vividly depicted in the charge, already so frequently mentioned, of Judge Burton to the grand jury of Sydney. Amongst the cases which he cited as illustrative of his positions, one especially deserved attention, as it embodied (to use his own words) in itself a picture of those evils with which the colony is visited. The case referred to was that of a man called Cowan and his wife, who were acquitted of the murder of a man named Kerr.

"These persons, and one Campbell and the deceased Kerr, lived near Liverpool, and kept an *unlicensed still*, and a house, to which the *gangs of prisoners* in their neigh-

bourhood resorted for drink ; and they were cattle-stealers. (It was no slander to call them such, since they have been convicted of it). On a Sunday evening their house was visited by a constable from Liverpool, who arrived about eight o'clock in the evening, and found all parties, as he expressed it, "beastly drunk," and two prisoners of the Crown in the same state. This was the last time Kerr was seen alive by any respectable person. Information was given on the next day, by two of Cowan's servants, to the magistrates of Liverpool, against him for cattle-stealing ; and it was proved that their having done so was known to Peter Montgomery, a convict employed as overseer at the Liverpool hospital, in the afternoon of the same day ; and that he had visited Cowan afterwards, and understood, from expressions made by Cowan during his intoxication, that he expected Kerr would give evidence against him. Kerr was murdered by some one on that night, and his body was afterwards found at the distance of 40 or 50 rods, but the blood was traced to within 17 or 18 yards, of Cowan's door.

"At the trial of Campbell, who had given a statement before the magistrates, which, if he had adhered to on the trial, would have brought home the guilt of that murder to both the prisoners, recanted the whole of the previous statements, and they were acquitted. It appeared in evidence that this person had been forwarded from Liverpool to Sydney, hand-cuffed with Cowan, and was confined in the same yard in the gaol with him ; and the gentlemen of the jury had had an instance before them this day of the effect of such association upon the evidence of a witness. It further appeared, and it deserves notice as an instance of retributive justice, as well as showing the character of this case, that another dead man was found in the same place, within three months before ; and upon that occasion a coroner's jury had acquitted the prisoner, Cowan, upon the evidence of that man Kerr ; and his disposition after his death was given in evidence in this court in favour of the same prisoner, when Cowan was subsequently tried before one of the other judges on that charge, and was the main ground of his acquittal."

The moral effects of Transportation on the state of society in Van Diemen's Land are described by two gentlemen (Captain Cheyne, director-general of the roads, and Captain Maconochie), who seem to have possessed the best means of acquiring accurate information, without having resided so long in that colony as to have their feelings hardened on the subject. Captain Cheyne, in his observations on convict discipline, says,—

"It is a lamentable fact, that a great portion of those who are entrusted with assigned servants are dissolute in their habits, and depraved in their principles, and rather hasten than avert the final ruin of those around them ; nor is this matter for surprise, when the origin and state of society in this country is remembered. Although the severity of the law produces an outward resemblance of order, a constrained good conduct, yet there abounds amongst us a fearful degree of immorality, unparalleled, perhaps, in any age or country, and not, I regret to say, confined to the convict population."

He observes, likewise, "It is a fact well known to every one closely acquainted with the prisoner population, that they uniformly regard with settled antipathies, nearly amounting to hatred, all who have not been, or who are not, prisoners ; and, when not repressed by self-interest, this is plainly exhibited. To account for this is not difficult * * * * *. Long accustomed to behold their fellow-creatures in a state of moral prostration before them, manacled and tortured, the finer emotions of the human breast have suffered petrification ; and even where Christian principle might be supposed to assert its claims, the torrent of custom prevails, so that for the outcast convict it is almost literally true, that 'No one careth.'" He adds, "Not only is immorality generally more common here than in the mother country, as indeed, under all circumstances, might be expected, but with 'envy, hatred, and all uncharitableness,' almost every man appears to be armed. If proof of this were wanting, it might be found in the licentious state of the press, which, with few exceptions, finds ample support in holding up to derision the authorities of the land, and even in the invasion of the sanctity of domestic privacy."

"Now, according to my views, this may be for the most part attributed to the Transportation system. The habit which most of the free contract, of thinking and speaking of and treating the convicts contemptuously, is, by a very natural process, extended to the whole species ; and hence the want of respect and deference to others which is so universally manifested. Nor ought this to excite surprise. In the rank of life from which most of them have come, they have been accustomed to an open exhibition of their passions, many of them in the roughest form ; comparatively few of them have been trained to the first lesson of refinement, the necessity and habit of civility."

"I acknowledge that a contempt for convicts is frequently produced by personal experience of their ingratitude, duplicity, and general depravity ; but it is also produced,

in part, by the important position into which the great disparity between the classes raises the free, which has a tendency to break down the distinctions conceded in the mother country, and thus to place the whole free population on a nearly equal footing. The contempt thus felt and expressed, which is the active mischief, is returned by the bond by hatred; and hence, as I have already stated, a prejudice of caste is produced, which sets the two classes of the community in hostility to each other. On the other hand the free, imbued with a notion of their individual importance, forget their relative duties, and are, more or less, claiming superior distinction and consideration."

Captain Maconochie speaks in the following manner of the effects of the assignment system on the character and temper of the master:—

"The master is rarely indulgent. He is accustomed to find his convict servants evade their work whenever possible; and he regards all excuses, therefore, with suspicion. A new comer, accordingly, like all his fellows in their day, if he does his best, is not thought to do so; and, stimulated by no motive to perseverance, on the contrary, advised probably on all sides to relax, if he ever begin, he soon ceases to desire to please. The intercourse between him and his master is thus hostile from the beginning; and it rapidly becomes a continued series of efforts, on the one part to evade work, on the other to resist such evasion. The ill-will which thus on both sides increases, is reciprocally shown by covert injury, and violent punishment and reproach. The convict is, beyond patient endurance, miserable; and the tokens of wretchedness cannot be kept under.

"The fretfulness of temper which so peculiarly characterizes the intercourse of society in our penal colonies, may be attributed, I think, almost exclusively to their convict system. Degraded servants make suspicious masters; and the habit of suspicion being once given, masters soon begin to suspect their equals and superiors, as well as their inferiors; whence, among other symptoms, impatience and irritability under Government regulations and judicial decisions, however just or well founded. The total disuse, moreover, of moral motives in the domestic relations of life, and the habit of enforcing obedience by mere compulsion, give a harsh and peremptory bearing in all transactions, which being met by a corresponding tone in others (the upper classes acting and re-acting on each other exactly as the lower), every difference of opinion constitutes a ground of quarrel, and disunion becomes extensively prevalent. Much, too, exists in the mere arrangements

for convict discipline, as now maintained, which fosters these lamentable results. A constant interference of the police with private feelings and interest is absolutely unavoidable in existing circumstances; and the summary and peremptory character of decisions in cases of discipline, scarcely admitting of appeal, and practically almost always confirmed against both convict and master (because, even if appealed from, the reply is contingent on a report from the magistrate who has passed the first sentence), is alone calculated, I think, to exasperate even mild spirits."

These opinions of the best informed witnesses, and the facts stated by Your Committee (upon the most unquestionable authorities), as to the amount and progressive increase of crime, and as to the depravity of both the town and country population, leave no doubt (even if any doubt could have been entertained) of the influence of Transportation on the state of society in the penal colonies, and of the moral corruption of the free by the criminal portion of the community. Your Committee fear, that if the existing system be continued, the moral condition of the penal colonies is more likely to be still further deteriorated than improved. As yet, in these infant communities, a considerable portion of the free must have been immigrants, and probably they left their homes at that period of life at which their habits and dispositions were formed, and they carried with them to their new country the moral feelings of this one, and were therefore less liable to be corrupted than their unfortunate offspring will be, who are to be brought up in those colonies.*

* It is stated, that many of the free settlers were low and abandoned characters, as bad perhaps as the convicts, nor is this to be wondered at. It is difficult to conceive how any man belonging to a superior class, not to say a good and estimable person, but one merely having the common feelings of morality, with the ordinary dislike of crime, could be tempted by any prospect of pecuniary gain to emigrate with a wife and family to one of these colonies, after a picture has been presented to his mind of what would be his probable lot. To dwell in Sydney, he might be told, would be much the same as inhabiting the lowest purlieus of St Giles's, where drunkenness and shameless profligacy are not more apparent than in the capital of Australia. If he settle, as would probably be his intention, in the interior, and become a landed proprietor, and rear flocks and herds, he would require many servants. Those whom he might persuade to emigrate along with him at his own expense, would remain but a short time in his service, in consequence of the competition which exists for the services of free men. The women servant who might accompany him would, from the

ECONOMICAL EFFECTS OF TRANSPORTATION ON THE PENAL COLONIES.

Causes of their Wealth.

The fifth head of Your Committee's inquiry is as to the economical effects of

scarcity of women, be still more sought after than free men, and would therefore be still more certain to quit him, to become wives if well-conducted, prostitutes if not. For want of servants a settler must apply to Government for convicts. He then becomes a slave-owner, not like the planters of the West Indies, or of the southern states of America, whose slaves, if not by nature, by education in bondage at least, are an inferior race, and having from youth been ignorant of freedom, consider it almost an honour to serve the white. On the other hand, the Australian settler has a property in men of his own race, hardened, desperate, and profligate ruffians, who have been nurtured in vice and crime, and have given way to the vilest passions. These are his servants, for he can get no others; without them his flocks would be untended, his cattle unherded, his land uncultivated, his capital destroyed, and himself ruined. With these therefore he must be contented; but these men (whose perverted principle of morality it is never to let slip an opportunity of committing a crime when there is a fair prospect of impunity) are so unaccustomed to restraint, so unable to control their passions, so addicted to drunkenness and speculation, so insolent, so insubordinate, so regardless of all lawful orders, so unwilling to work, that he must constantly refer to magisterial authority, and to the infliction of the lash, or he must connive at their crimes, and grant them every species of vicious indulgence, in order to persuade them to labour. These men have known better times; have acknowledged no master in this country; they repine at their lot, and hate the settler to whom they are assigned as a taskmaster and tyrant, and he cannot fail to hate them in return. Though this, the cruelest of all descriptions of slavery, may not wholly subvert the already formed character of an emigrant, what must be its effects on his unfortunate children, who are to be reared in the midst of it, whose habits and dispositions will be formed by it? The effect of slavery on the character of the slave-owner is one of the worst, if not the very worst moral result of common slavery; but this extraordinary description of slavery has frequently worse consequences than those of rendering the children of the colonists cruel, imperious, and haughty. Whatever pains the father may take, he cannot cut them off entirely from all association with his menial servants; and who are they? A settler can know nothing of the past crimes of his convict servant before he receives him in his establishment, and even if he did, he must take those whom he can get; in the same establishment he may, therefore, have at the same time a forger, a burglar, a murderer, and even an offender against nature. As much as possible the colonists dispense with the services of convict women; and those whom they cannot help having in their service are all irreclaimable prostitutes, too often disgusting by the

Transportation on the penal colonies, and to what extent the pecuniary interests of those communities will be affected by the continuance or discontinuance of that system. Some persons contend that the pecuniary interests of the penal colonies

indecently of their language and demeanour. Among such servants the children of an emigrant are to be reared from their earliest youth, he would hope in virtue. If these hopes be not disappointed, he will be far more fortunate than several of the most respectable and richest families in the penal colonies; some of whom have had to lament over their daughters, made witnesses and companions of the debaucheries of the abandoned females around them, till those daughters became equally abandoned as their attendants, equally debauched in body and mind. And other equally respectable families have discovered, when too late, the horrible fact that their tender infants have been subjected to the brutal caresses of all their convict servants, whose death by the avenging arm of justice was but a poor consolation to the miserable parents. Now, aware of these and similar facts, what dreadful apprehensions must fill the mind of a settler should he be forced, even for a day, to quit his home and leave his family unprotected in the midst of such desperate villains as his servants; and fortunate is he who, on his return, does not find his worst fears of violence and outrage realized on the persons of those whom he holds dearest.

In this picture of what may befall a respectable free emigrant in New South Wales or Van Diemen's Land, only facts are stated which have been proved before the Transportation Committee by the most credible witnesses. Many more statements might be made, with perfect truth, which would deter any virtuous or high-minded man from seeking his fortune in these colonies. He might be told how every kind and gentle feeling of human nature is constantly outraged by the perpetual spectacle of punishment and misery, by the frequent infliction of the lash, by the gangs of slaves in irons, by the horrid details of the penal settlements, till the heart of the emigrant is gradually deadened to the sufferings of others, and he becomes at last as cruel as the other gaolers of these vast prisons. It might be proved, that as long as these communities are made the receptacles of criminals, their inhabitants must be subjected to the despotism of a gaol, and must forego those free institutions which are the boast of Englishmen. The great disproportion of the sexes might be spoken of, and its disgusting consequences traced; it might be shown how the yearly emigration of convicts renders the disproportion permanent, and annually increases the filth of these abodes of iniquity. An account might be given of the vain efforts made to purify these lazar-houses; of the ship-loads of young women sent out with the most philanthropic objects, who, instead of improving the moral character of the colonies, became as corrupt as the rest of the inhabitants, till the experiment was abandoned in despair. The fruitless endeavours of pious men to teach religion to persons who acknow-

require the continuance of Transportation ; that as the extraordinary commercial prosperity of these colonies was occasioned by the constant supply of convict labour, if that supply be cut off the colonies would be ruined, from great wealth be reduced to great poverty ; and that this change in the fortunes of the inhabitants, especially if it were sudden, would necessarily produce the worst moral effects upon their character, and still further demoralize the already demoralized. Though Your Committee cannot consent to weigh the economical advantages of Transportation against its moral evils, yet the above-mentioned positions deserve the most serious attention. No fact can be better established by the evidence before Your Committee, than that the extraordinary wealth of these colonies was occasioned by the regular and increasing supply of convict labourers. The convicts were assigned to settlers as slaves, they were forced to work in combination, and raised more produce than they could consume ; for this surplus produce Government provided a market, by maintaining military and convict establishments, which have cost this country above 7,000,000*l.* of the public money. Thus the Government first supplied the settlers with labour, and then bought the produce of that labour ; the trade thus carried on was a very profitable one for the settlers, as long as the demand of the Government exceeded the supply ; and this excess of demand over supply has continued up to a late period.

Such is the history of the economical prosperity of New South Wales, and likewise of Van Diemen's Land. It is in most respects the economical history of a slave colony ; and as slave colonies have more generally and more rapidly increased in wealth, on account of the forced combination of labour than colonies planted entirely by free men who have not combined their labour, so in these colonies of criminals in bondage, where the few free settlers were provided not only with slaves free of expense, but likewise with an excellent market, a larger amount of wealth has been accumulated in a shorter space of time than perhaps in any other community of the

ledge no law, either human or divine, might be described, and their vain exertions to educate in virtue those who were brought up, and had passed their time, in unrestrained intercourse with the worst of the human species. In short, it might be said, in the words of petitioners from Van Diemen's Land, that the whole system of Transportation violates the feelings of the adult, barbarizes the habits, and demoralizes the principles of the rising generation, and the result is, to use the expression of a public newspaper, "Sodom and Gomorrah."

W. M.

same size in the world. But, will this prosperity continue? To what extent will it be affected by the continuance or discontinuance of Transportation? The market which the Government has provided is a very limited one ; the amount of labour which the Government can supply in the shape of criminals is still more limited. For many years after the commencement of these colonies there were more labourers than the settlers could employ, and the Government granted various indulgences to those who would take convicts. At a subsequent period the demand for labour equalled the supply, and the Government found no difficulty in disposing of the convicts. Of late years the demand for convict labour has far exceeded the supply ; there has been great competition to obtain convicts. With an increase of capital an increase of labour is required to render the capital productive. Now, from the extraordinary disproportion of sexes, as has already been stated, the population in New South Wales does not equal the number of persons who have actually arrived in the colony ; capital, on the other hand, has amazingly increased. Hence New South Wales is suffering excessively from a dearth of labourers. The flocks of sheep are double the size they ought to be ; a vast number perish for want of care ; the complaints of the colonists on this subject are loud and universal ; 10,000 labourers are required at this moment in New South Wales, whilst the number of convicts to be sent there this year will not much exceed 3,000, a number little more than sufficient to supply the place of those who will cease to be labourers by obtaining their freedom, by death and other circumstances. If, therefore, the penal colonies are to continue to depend upon our gaols for their supply of labour, their prosperity has reached its climax, and must decline, without such an extension of crime in this country as it must be hoped is altogether unlikely. Nothing, therefore, can be better demonstrated than that labour must be supplied from other sources than that of Transportation, if New South Wales and Van Diemen's Land are to continue to flourish.

But what are the sources from which labour can be obtained? A proposal has been made by some of the colonists of New South Wales to import Hindoos as indentured apprentices, who are to be sent back to Hindostan at the expiration of their period of indenture. This scheme has been most justly objected to by the Government as one of the innumerable descriptions of slavery to which, under various appellations designed to conceal its nature, colonists have had recourse when suffering under the

pressure of a want of labour. If the Hindoos should return to their native land, this expedient for furnishing labour must be of a most temporary nature, merely providing the colonies with a few thousand labourers for a few years, and totally inadequate for that extension of industry of which New South Wales is capable; on the other hand, if the Hindoos remain and multiply in that colony, they will form at all events a separate, probably a slave caste; and Your Committee can hardly believe that any statesman, who possesses any knowledge of the social and political difficulties which arise from a slave caste in the southern states of America, would consent to curse Australia with a similar evil.

The only other means of supplying Australia with labour is by free emigration, and Your Committee are rejoiced to find that the Government have taken active steps to encourage it; and that, both this year and last, a considerable number of emigrants have been conveyed there, the expenses of whose passage have been defrayed out of the funds arising from the sales of waste lands in those colonies. This mode of encouraging emigration appears to Your Committee to be founded upon the soundest principles, to be equally beneficial to a mother country and to a colony, and to be especially beneficial to the Australian colonies, by infusing into them a better description of population, and thus, it is to be hoped, improving the moral state of those communities: * it should be remarked, that every witness acquainted with the subject, who was examined before Your Committee, was strongly impressed with this opinion, and they unanimously stated that one of the greatest benefits that had ever been conferred by the Government on New South Wales was the adoption of the Re-

gulations of 1831, with regard to the sales of waste lands, and the disposal of the proceeds of those sales in emigration. Your Committee, however, must remark that the continuance of Transportation to the Australian colonies would be inconsistent with the policy of encouraging emigration there, for Transportation has a tendency to counteract the moral benefits of emigration, while, on the other hand, emigration tends to deprive Transportation of its terrors.

Your Committee, however, cannot help doubting whether a sufficient supply of free labour will be obtained by the above-mentioned means. For it appears to them, that while the minimum price for obtaining land is so low as 5s. an acre, a labourer can too quickly acquire land by the saving of his high wages, and too readily gratify the desire, inherent in all men, of independence. A labourer can therefore pass in too short a time from the condition of labourer to that of landowner. This fact was sufficiently proved by the papers laid before Your Committee. The want of labour in New South Wales is at this moment even greater than it was in 1831, when the existing regulations as to the disposal of land were adopted, notwithstanding the increase, as compared to former years, in the number of convicts and of free labourers who have gone out. This and the immense extent of land which has been sold, clearly prove that the restriction upon the facility of acquiring it, which was imposed by adopting the system of sale, has not been sufficient for its intended purpose. The price fixed upon land in 1831 appears merely to have been an experiment, and it probably would have been imprudent, by naming a higher price in the first instance, to increase the difficulty of introducing the change in the face of the prejudice which then prevailed against the whole system. If the existing system of Transportation be discontinued, it would, in the opinion of Your Committee, be absolutely necessary to raise the minimum price of land at least to 1*l*. an acre; and, eventually, it would probably be found advantageous to carry it considerably higher still. For it is obvious, that by raising the price of land the tendency of population to undue dispersion over an almost unlimited territory, which is the cause of the want of labour now so much complained of, may be checked as much as may be desired. The higher the price set upon land, the less, of course, will be the quantity sold, and the greater the number of emigrants sent out in proportion to the extent of territory brought into occupation, supposing that the proceeds of the land-sales continue to be applied to this purpose. Experience must determine, and experience only can do so satisfactorily, what will be the proper price

* By those who take a deep interest in the moral welfare of their fellow-citizens, great doubts might reasonably be entertained whether the Legislature is justified in sanctioning, not to say promoting, the departure of the poorer and more ignorant classes of the community to colonies, where every moral and religious principle of the emigrant is all but certain to be subverted by contact and association with transported offenders. To them it must be a matter for serious and anxious consideration, whether, if transportation be to continue, the Legislature ought not rather to prohibit emigration to the penal colonies, and convert them into vast lazarettoes, in which the morally tainted should dwell alone, and to which the innocent should never approach for fear of contagion. Similar precautions are taken against physical disease, which only destroys the body. Surely it behoves the Legislature of this Christian country to take equal precautions against those moral diseases which destroy both body and soul.

to put upon land, in order neither too much to check nor unduly to facilitate the gradual extension of population over the vast regions which are open to the enterprise of the colonists of Australia. Without pursuing this inquiry further, it is sufficient to point out the principle, by acting upon which the discontinuance of the existing system of Transportation may be made not in any way, in the opinion of Your Committee, to interfere with the material interests of New South Wales and Van Diemen's Land, as respects a supply of labour.

On the other hand, the continuance of Transportation discourages emigrants from working as labourers, for the employment of convicts as slaves has, to a certain degree, a tendency to bring labour into disrepute.

As connected with the economical effects of Transportation, Your Committee must refer to the evil consequences of the numerous escapes of convicts from the penal colonies. Parties of these lawless men have at times settled upon various portions of the shores of Australia, and considerable numbers have reached New Zealand, and some of the islands of the Polynesian Ar-

chipelago; wherever they have been they have committed on the natives outrages at which humanity shudders. These results are deeply to be deplored, both as disgraceful to the character of this country and injurious to its commercial interests in that portion of the globe.

EXPENSE OF THE PRESENT SYSTEM OF TRANSPORTATION.

The sixth topic for the consideration of Your Committee is the expense of the present system of Transportation. It has been impossible for Your Committee to obtain an accurate statement of the total amount of British funds expended on the two penal colonies since their foundation, as the accounts have hitherto been kept principally with a view to their examination and audit, and not framed so as to afford the statistical information required. The sum really expended on account of the penal colonies exceeds the subjoined estimate, which, however, may be considered sufficiently to approximate to the true amount, to give the House an idea of what has been the cost of the punishment of Transportation:—

Cost of the transport of convicts.....	£2,729,790
Disbursements for general, convict, and colonial services	4,091,581
Military expenditure	1,632,302
Ordnance	29,846
Total from 1786 to 31st March 1837.....	8,483,519
Deduct for premium on Bills, Coins, &c.....	507,195
	£7,976,324

The number of convicts transported to New South Wales and Van Diemen's Land up to the end of the year 1836, were 96,558; their conveyance to those colonies has, therefore, cost about 28*l.* per head on the average; and the various expenses consequent upon their residence and punishment there has been at least 54*l.* a head, in all, more than 82*l.* a head; how much more it is impossible for Your Committee to ascertain.

The expense entailed upon this country by the penal colonies has been, on the average, since their commencement, 156,398*l.* a year; but at present the annual expenditure is more than treble that amount, and is rapidly increasing every year. That

expenditure can now be ascertained with considerable accuracy, as the commissariat accounts have been kept in an improved form since 1832. It should be remarked that the estimates for the penal colonies are not voted in one sum, but are scattered through various portions of the general estimates; for instance, the transport of convicts is defrayed out of the Navy Estimates; the pay of troops, out of the Army Estimates; the maintenance, &c. of convicts, out of the Miscellaneous Estimates; the various dry stores required, out of the Ordnance Estimates; and innumerable sundries are paid out of the Army Extraordinaries.

The following was the expenditure of this country on account of New South Wales and Van Diemen's Land in 1836-7:—

New South Wales.	Ordinaries of the army	£46,801	
	Commissariat	3,450	
	Ordnance.....	12,014	
	Navy.....	4,641	
	Extraordinaries of the army	55,625	
	Special disbursements on account of convicts	127,949	
	Carried forward		£250,480

REPORT FROM THE

		Brought forward	£250,480
Van Diemen's Land.	{ Ordinaries of the army	16,854	
	{ Commissariat	2,059	
	{ Ordnance	11,625	
	{ Navy	515	
	{ Extraordinaries of the army	20,867	
	{ Special disbursements on account of convicts	113,083	
		<hr/>	164,503
Transport of convicts		73,030	
TOTAL EXPENDITURE for the Year 1836-7.....		<hr/>	£488,013

In 1836 the number of convicts in the two colonies amounted to above 60,000, and in that year the cost to this country was little more than 6*l.* 16*s.* a-head; in the same year about 5,475 persons were transported at the expense of about 13*l.* 6*s.* a-head. In these estimates of the expense of the system of Transportation, neither the cost of the convict establishment at Bermuda nor of the hulks at home are included.

ALTERATIONS IN THE PRESENT SYSTEM OF TRANSPORTATION.

Its discontinuance recommended.

Your Committee having completed their description of the existing system of transportation, and of its effects, are now prepared to express their decided opinion that some alteration in the system is absolutely indispensable; and this brings them to the consideration of the last head of their inquiry, as to whether the present system be susceptible of improvement, and if not, what substitute for it might be adopted. If any attempt is to be made to correct the evils of the existing system of transportation, that attempt must, in the opinion of Your Committee, be directed to the improvement of the regulations under which convicts are subjected to penal labour under Government officers. For the practice of assigning convicts to settlers has, as a punishment, this inherent defect, namely, that it is as uncertain as the diversity of temper, character, and occupation amongst human beings can render it; and this, in the opinion of Your Committee, affords them sufficient grounds, without proceeding any further, to recommend its immediate discontinuance. They, however, now entertain great hopes that such a recommendation on their part is no longer necessary, for since the inquiries of Your Committee commenced, the Secretaries of State for the Home Department and for the Colonies, impressed with the magnitude of the evils occasioned by the assignment of convicts, have recommended the discontinuance of that system at the earliest practicable period, and the

Governor of New South Wales has issued a proclamation to that effect. In a letter of the Secretary of State for the Home Department on this subject, it was proposed to diminish, as much as possible, the number of transports to be sent yearly to the Australian colonies, and to employ all the adult male convicts on the public works and roads; this, if Transportation be continued, is the only substitute for the assignment system, unless it be deemed advisable to establish in the penal colonies some form or forms of the penitentiary system of punishment. Your Committee have, therefore, still to consider whether the subjecting of all transported convicts to compulsory labour under the immediate charge of the Government in New South Wales and Van Diemen's Land would be an improvement in the present system.

Most of the best informed witnesses examined before Your Committee recommended that, if the above alteration were to take place, convicts should be employed chiefly in making roads, in which occupation they would be most useful to the penal colonies.

Mr Macarthur, a large landed proprietor in New South Wales, and Major Mitchell, the surveyor-general of the colony, seemed to think that such a system of administering road-parties of convicts might be introduced as would obviate the evils complained of with regard to the present road-parties in New South Wales, and which are mentioned in the preceding pages of the Report of Your Committee. It must be observed, that all the opinions of Mr Macarthur are worthy of the most attentive consideration, on account of that gentleman's accurate knowledge of the state of the colony. The following are the main features of the plan which he proposed:

In order to preserve discipline amongst convicts in road-parties, and to compel them to work, vigilant superintendence is required. To obtain such superintendence is the great difficulty in New South Wales, both on account of the want of proper persons, and on account of the expense which would be incurred in giving them a proper salary. In order to diminish the number

of superintendents as much as possible, Mr Macarthur proposed that a system should be adopted somewhat similar in principle to that pursued at Sing-Sing, in the State of New York. The criminals who were sent to the prison of Sing-Sing were employed beyond its limits in quarrying marble; 900 persons have been at times occupied in this manner under the superintendence of only 30 keepers. They laboured in the open country, without chains either on the hands or the feet; yet perfect discipline was preserved, and a considerable quantity of work performed. How, it may be asked, was this effected? what made these 900 criminals, assembled together, obey the orders of so small a body? The keepers were able to communicate one with another, and consequently to combine their efforts against the prisoners, and moreover they were armed with muskets. On the other hand, the convict was prohibited from speaking to any fellow prisoner. He was required to pursue his labour with downcast eyes. If in any case he was detected in looking off his work, in gazing at, or attempting to exchange communication with another prisoner, he was flogged by the overseer with a whip (a cat or cow-hide) in the presence of his associates. The correction was certain and immediate; the quantity of punishment was entirely dependent on the will of the overseer, against whose acts there was no appeal. Thus the prisoners were prevented from communicating one with another, either by words or signs. Ignorant of each other's thoughts and inclinations, they could not combine against their keepers. At night they were shut up in solitary cells. The essence of the whole system was the mental isolation of the prisoners to be effected by such prompt and severe punishment as would completely break down the mind and will of the convict, and would deter him from every attempt at communication with his fellow sufferers. For this purpose the most arbitrary power was vested in the superintendents, upon whose vigilance the success of the system depended. Attempts at escape were prevented by armed sentinels. The framers of the system considered it less objectionable to shoot a convict than to resort to the ordinary means by which escape could be prevented. Such as yet is the only mode in which a body of prisoners, out of chains, have been worked together at large so as to preserve discipline, and to extract from them a considerable quantity of work. These are the objects to be attained in New South Wales, if it be absolutely necessary for the welfare of that colony to continue the road-parties, or if it be deemed expedient to substitute this description of punishment for

the system of assignment. It should be remarked, that as road-parties must constantly change their place of residence, it would be impossible, by ordinary or physical means, such as well-contrived prisons, to prevent the escape of convicts, and preserve discipline. At Sing-Sing a well-contrived prison, though without surrounding walls, facilitated at night the preservation of discipline amongst the prisoners.

The plan proposed by Mr Macarthur, with regard to the road-parties, is stated by him to be a modification of the system which has been just detailed. The road-parties are to be shut up at night in wooden stockades which can easily be fabricated out of materials always at hand. Silence, during the night, is to be preserved by constables always on watch. The convicts in chains, and out of chains, are to be worked together. Discipline is to be enforced by a certain graduated scale of rewards and punishments. If the convict behave himself well, he is to be worked out of chains or employed in lighter work, or placed in gangs under a less severe system of discipline; or, lastly, after a long course of good conduct, he is to receive a ticket-of-leave. If, on the other hand, his conduct be bad, he is to be flogged or placed at severer work, under stricter discipline, or worked in irons. The head of each department is to be a magistrate, with the power of inflicting summary punishment. The overseers are to be armed, and permitted to fire on the convicts if an attempt be made to escape. The efficacy of this system would, like that at Sing-Sing, depend entirely upon the character and vigilance of the superintendents, yet, as in Mr Macarthur's plan the power of inflicting immediate punishment would be much less, it would be much more difficult, if not impossible, for the overseer to preserve discipline. In proportion to the strictness of the discipline to be enforced, are the temptations and desire of the convict to escape from it; if, therefore, the fear of punishment is the only or chief means by which discipline is to be enforced, then the punishment must be immediate and certain, in order to produce the effect desired; for at every moment the convict is tempted to communicate with those around him; he is likewise unwilling to work, because the work is compulsory: the dread of immediate pain must therefore be constantly before his eyes, in order to restrain him from these offences. The immediate and certain application of the lash at the will of the overseer, on the slightest symptom of insubordination, or in consequence of the smallest offence, kept the convict at Sing-Sing in a constant state of apprehension, and alone enabled a small number of

overseers to superintend a large body of criminals; without equally arbitrary powers the same number of superintendents would not, in New South Wales, keep in order an equal number of criminals as at Sing-Sing. By greatly increasing the number of overseers, and choosing only persons of an unexceptionable character, discipline might be better enforced than at present; but the expense of such a system would counteract the only benefit which is supposed to result from the existence of the road-parties, namely, that they are the means by which alone the colony of New South Wales can obtain good roads at a small expense. It therefore appears, that with regard to the employment of convicts on the roads out of chains, one of two alternatives must be adopted, either strict discipline by arbitrary and immediate punishment at the will of the superintendent, the consequence of which is completely to brutalize and degrade a criminal; or a lax system, like the one which now exists in New South Wales, the evils of which need not be recapitulated.

In addition to the above-mentioned difficulties which beset the employment of a large number of convicts on the public works of the Australian colonies, Your Committee must observe that, if this mode of punishment were substituted for the system of assigning convicts to settlers, a greatly augmented military force would be required. In order to increase the number of convicts in chain-gangs and road-parties, in New South Wales, to between 4,000 and 5,000, Sir Richard Bourke stated, that the services of another regiment would be required in that colony; and even then, Your Committee cannot help thinking that in a few years extreme difficulty and mischief would arise from having many thousands of offenders scattered over the roads of a thinly-peopled colony; add to this, that numerous and expensive permanent establishments, connected with the superintendence and direction of convict workmen, would be required; that large quantities of public stores, liable to damage, waste and misapplication, would be apt to be accumulated; that the possession of these stores, and the constant command of a large body of artificers, would hold out inducements to the colonial governments to undertake unnecessary works; and lastly, that the stores would be apt to be misapplied, and the labourers worked for the accommodation of individuals connected with the governments. These abuses have notoriously existed in New South Wales, and, together with the urgent demand on the part of the settlers for convict labour, have occasioned a great extension in that colony of the system of assignment. The

apprehension of similar abuses in Van Diemen's Land induced Lord Stanley, when Colonial Minister, to recommend a diminution of the number of convicts in the employment of Government in that colony. This recommendation was, however, not attended to; and there seems to be good reason for supposing that the abuses in question have existed in no small degree in Van Diemen's Land. Captain Maconochie has stated, on the authority of the superintendent of the Road and Bridge Department, that 1s. 9d. is lost out of every 3s. worth of labour expended on the public works executed in Van Diemen's Land; and Captain Maconochie observed, likewise, with regard to the description of public works, and the manner in which they are performed, that,

"What is done by a government, it is always thought by its servants cannot be too well done, too highly finished, or too much improved on, till nearly quite perfect; hence, deep cuttings in particular points in road-making, the intervals being left comparatively untouched; minute, but frequent and expensive improvements in certain parts of their lines; a few handsome churches, bridges, and so forth; instead of the whole country being rendered passable, and furnished with moderate accommodation of every kind, until time and increasing means and population enable luxury and improvement to be gradually and universally introduced."

And lastly, Your Committee must observe that if all transported convicts were to be employed by the Government in New South Wales and Van Diemen's Land, the expense of Transportation would be excessively increased. Sir George Arthur stated, that the average expense of an assigned convict is about 4*l.* a-head, whilst that of a convict in the employment of the Government is about 14*l.* a head; to substitute employment on the Government works for assignment would therefore probably entail an additional expense upon this country of not less than 300,000*l.* per annum, without reckoning the increased expenditure for the additional number of troops which would be required. On this account, and likewise for the reasons already stated, Your Committee cannot recommend the adoption of the above-mentioned alteration in the present system of Transportation.

Your Committee must likewise remark, that if the present mode of punishing convicts in the penal colonies were to be abolished, and it were deemed advisable to substitute in its stead one or more forms of the penitentiary system of punishment, to establish such a system in the penal colonies would be far more expensive than to

punish offenders in a similar manner in this country; 1st, on account of the expense of conveying offenders to so great a distance: and, 2dly, on account of the high rate of wages, the great price of all materials, the difficulty of obtaining skilled labourers, and similar causes, which would make the erection of the necessary buildings far more expensive than in this country.

Your Committee having, in the preceding pages of their Report, discussed the nature and effects of Transportation, and what alterations can be made in the existing system, now consider that they have submitted the most unquestionable proofs that the two main characteristics of Transportation, as a punishment, are inefficiency in deterring from crime, and remarkable efficiency, not in reforming, but in still further corrupting those who undergo the punishment; that these qualities of inefficiency for good and efficiency for evil, are inherent in the system, which therefore is not susceptible of any satisfactory improvement; and, lastly, that there belongs to the system, extrinsically from its strange character as a punishment, the yet more curious and monstrous evil of calling into existence, and continually extending societies, or the germs of nations most thoroughly depraved, as respects both the character and degree of their vicious propensities. Your Committee, therefore, are of opinion, that the present system of Transportation should be abolished, and will now proceed to offer a few observations as to the description of punishment which, in their opinion, ought to be substituted in the stead of Transportation.

SUBSTITUTES FOR TRANSPORTATION.

Penitentiary System.

In recommending the abolition of the existing system of Transportation, Your Committee are not aware that any new simple punishment can be introduced in its place. As capital and severe corporal punishments have gradually been relinquished, the loss of personal liberty and the performance of compulsory labour have necessarily become the chief elements of every penal system that has been devised; and, upon close examination, such systems, however unlike they may at first sight appear, will be found to differ from each other in little except the arrangements, by which the simple punishments of which they are composed, are combined together and inflicted.

Such being the case, the question under discussion will be greatly simplified by considering, in the first instance, in what manner and by what arrangements confinement and forced labour can best be inflicted,

without reference to the place which is selected for the purpose. Now, upon this point, the experience of all nations, and more particularly the inquiries which have been instituted of late years, appear to establish the conclusion that some modification of the penitentiary system is best calculated to inspire terror, and to improve the moral character of an offender; and, as far as any inference can be drawn from a comparatively short experience, it appears, that these two main objects of punishment are most likely to be obtained by that form of the penitentiary system which is known as the separate system of America. The objection to the general adoption of this system is the enormous expense which it would occasion, in the first instance, in building the necessary prisons. Another and, confessedly, a very inferior system to this, but yet a great improvement upon the old-fashioned gaols and hulks is, what is termed the silent system, which, as it only requires prisoners to be separated during the night, is attended with less expense in the erection of prisons than the last-mentioned plan. A third method has lately been suggested by Captain Maconochie; and though it has not yet been attempted, it seems to deserve consideration.

It appears to Your Committee that all these different modes of uniting imprisonment with hard labour might be advantageously tried; that by applying them to different classes of offences the effect of each might be experimentally ascertained, and then that mode which should prove to be the best ought eventually to be adopted.

The important question next arises as to where penitentiaries for the infliction of punishment according to any of these plans could be best established, whether within the limits of the United Kingdom or in any of the foreign possessions of the Crown. The advantages of having such establishments at home are, first, reduced expense in conveying offenders to them, and in providing the necessary guards and superintendence; second, the benefit of having them more immediately under the eyes of the Government and of the public, so that any defects are likely to be more easily discovered and corrected; and lastly, the impression which may be produced upon the minds of persons disposed to the commission of crimes, by the notoriety which the nature of the punishment is likely to acquire from being inflicted in this country.

On the other hand, the advantages which are supposed to be attained by the formation of penal establishments abroad are, first, the greater facility of preventing communication between offenders under punishment and their friends, or other persons; second, the check which would thus be given to

inconvenient solicitations in behalf of convicts; third, the effect which the apprehension of removal to a great distance from their own country has upon the minds of many men, and more particularly of the ignorant; and lastly (supposing the places fixed upon to be isolated and very fertile) the possibility of reducing the expense of punishment by employing convicts in building the penitentiaries they are to occupy, and in raising their own means of subsistence.*

* As I consider the proposal contained in this passage, of establishing penitentiaries abroad, to be very objectionable, I shall successively examine the arguments urged in favour of them, which appear to me to be excessively over-rated, whilst the objections to them are hardly stated.

First, "as to the effect which the apprehension of removal to a great distance from their own country has upon the minds of many men, and more particularly of the ignorant."

The fear of exile, as a severe aggravation of punishment, exists in the minds only of a small portion of those likely to incur the penalty, and least in those of a depraved character. It is the less hardened, who are attached to their country, to their friends and relations, and they stand less in need of severity of punishment. On the other hand, the remoteness of the place of punishment aids deception, the enjoyment of those who fare the best being exaggerated, and the sufferings of others concealed, so that the evil of punishment, the misery actually endured, may be going on to the utmost extent, while the benefit of punishment, the terror inspired, is almost entirely lost. I need not dwell upon these positions, which point out the defects inherent in every plan of punishment that possesses any of the characteristics of Transportation or exile, for they are developed in the fullest manner in the 20th, 21st, and 22nd pages of the Report.

Second, as to "the greater facility of preventing communication between offenders under punishment and their friends or other persons," and "the check which would thus be given to inconvenient solicitations in behalf of convicts." I cannot consider these arguments in favour of a remote place of punishment to possess much weight. In many of the American penitentiaries communication between offenders under punishment and their friends is strictly forbidden, and no difficulty is found in enforcing regulations to this effect. It does not precisely appear in what manner "inconvenient solicitations" would be prevented by the convict, in whose behalf they would be made, being out of this country. The friends of an offender under punishment at Norfolk Island, or elsewhere in the vicinity of the antipodes, would be equally able to pester the Secretary of State for the Home Department for a mitigation of punishment, as if the convict were at Chatham, or at any place else near home; moreover, all apprehensions of "inconvenient solicitations" in behalf of convicts might be entirely dismissed, if the fourth resolution of the Committee were adopted and

With regard to the places in which penitentiaries should be established abroad,

fully acted on:—"That rules should be established, by which the existing practice of abridging the periods of punishment of convicts in consequence of their good conduct, may be brought under stricter regulation, and rendered less vague and arbitrary." Thus the abridgment of the criminal's sentence would be entirely dependent, and understood to be dependent, on his own conduct in the penitentiary, and a most objectionable, and frequently abused power would be taken out of the hands of the Secretary of State for the Home Department.

Third, as to "the possibility (supposing the places of punishment fixed upon to be isolated and very fertile) of reducing the expense of punishment by employing convicts in building the penitentiaries they are to occupy, and in raising their own means of subsistence." It is strange that the Committee should have employed this argument in favour of distant places of punishment, after the experience afforded them by the penal colonies; and after their own express opinions (in page 42) as to the substitution in those colonies of the penitentiary system of punishment, for the present mode of punishment, "to establish such a system in the penal colonies (say they), would be far more expensive than to punish offenders in a similar manner in this country: first, on account of the expense of conveying offenders to so great a distance; and, secondly, on account of the high rate of wages, the great price of all materials, the difficulty of obtaining skilled labourers, and similar causes, which would make the erection of the necessary buildings far more expensive than in this country."

All these objections apply with still greater force to isolated spots, such as Norfolk Island and the like. The expense of conveying offenders to them would be much greater than to the penal colonies, because there would be no return cargo for the vessels so employed. It is evident that the price of materials of every kind would be higher in a small island in the midst of the Southern Ocean than in the flourishing community of New South Wales. Greater wages must be given to free and respectable individuals to induce them to become overseers, superintendents, &c. of convicts in a place inhabited entirely by convicts, than in a half criminal colony; and after the statements, to be found in every portion of the evidence, of the enormous abuses arising from convicts being overseers, &c., the Committee cannot for a moment be supposed to have intended that they should ever again be placed in such responsible situations; for the same reason the difficulty of obtaining free skilled labour would be greatly enhanced, and experience has satisfactorily proved (page 9) the impossibility of extracting skilled labour from convicts, except by vicious indulgences. The only countervailing advantage is to be the fertility of the spot to be chosen, so that with the very small amount of labour, which (as is shown in page 42) can be extracted from convicts, the greatest amount of produce might be obtained; but even in the superlatively fertile

Your Committee are of opinion that neither the settled districts of the present penal colonies, nor any other colonies, in which offenders should be suffered to remain after the termination of their punishment, should be selected for that purpose. The establishment of penitentiaries in New South Wales or Van Diemen's Land would be attended with many disadvantages, and more particularly with the loss of that complete isolation of prisoners under long sentences, which is one of the chief merits

island of Norfolk, where many of the convicts have been employed in agriculture, 800 of them have generally cost this country 30,000*l.* per annum.

Far too much stress has been laid upon the profit to be expected from the labour of criminals as a reason for particular descriptions of punishment. It is one which ought to be listened to with the greatest suspicion. All our endeavours after an economical and profitable punishment have hitherto totally failed, and have produced effects the contrary of those intended, bringing profits to individuals only, at a most disproportionate cost to the public. The desire of turning to profitable account the punishment of malefactors, confessedly a very subordinate consideration, has a tendency, as experience shows, to absorb our attention, and to make us lose sight of what are admitted to be by far the most important objects of secondary punishments. It has led to the adoption and continuance of a system, which instead of preventing has encouraged crime, and which, in place of reformation, has produced the most horrible demoralization. It has blinded us to the certainty of abuses arising, and to the actual existence of them, in spots remote from national superintendence, abuses too enormous to have escaped notice, as they have done, and indeed in a great degree as they still do, had not the scene of them been so distant; and in instigating the Committee to recommend penitentiaries abroad, in places still more remote from the public eye, it threatens a repetition of similar if not worse evils.

It is true that no mode of punishment can be devised which is not open to objections, not only plausible, but in a great measure real and valid, and again some real advantages may be pointed out in every system of punishment, save only and except always that of penal colonies. It appears to me, however, that in searching for a substitute for Transportation, and in attempting to divine the best system of punishment, the best course to be taken is to discard from one's thoughts entirely, in the first instance, all considerations of profit to be derived from the labour of criminals, and to look with singleness of purpose to the two grand objects of penal legislation: first, the prevention of crime, and, secondly, but "*longo intervallo*," the reformation of offenders. Afterwards, if it should appear, that two or more systems have equal claims to attention, in reference to these great objects, it will then be time enough to consider what subordinate considerations there may be to turn the scale.

W. M.

of the plan of inflicting punishment at a distance, instead of at home; and to allow offenders to remain in the colonies, in which any new penal establishments may be formed after the termination of their punishment, would obviously be merely to repeat the error committed in creating such societies as now exist in Australia. In order, therefore, effectually to maintain discipline and subordination among convicts sentenced to confinement abroad, and also to prevent a recurrence of those social evils which have been found by experience to result from Transportation, as hitherto conducted, the penitentiaries or houses of confinement that may be established abroad, ought (so far as possible) to be strictly limited to those places wherein there are at present no free settlers, and wherein effectual security can be taken against the future resort of such settlers, and the convicts who have been there punished should be compelled to leave these settlements within a certain period after the expiration of their sentences. Your Committee must observe, however, that if any convenient island in the immediate vicinity of the coasts of the United Kingdom could be fixed upon for the building of penitentiaries, and no persons but the prisoners and their superintendents were permitted to reside there, it would combine, as a place of punishment, the chief advantages both of a penal settlement at home and abroad.

As a substitute for Transportation, Your Committee, therefore, recommend the punishment of labour in penitentiaries to be established at home or abroad. The shorter sentences should be undergone at home, as soon as the necessary buildings for that purpose could be provided. The expense, in the first instance, of building such penitentiaries would be heavy; but when once established, the annual charge for maintaining them would be light in comparison with that now incurred; even although the introduction of the improved system should not have the effect reasonably to be expected, of keeping down the number of convicts to be punished. For Your Committee have shown, in a previous portion of their Report, that Transportation now entails upon this country an expense of not less than between 400,000*l.* and 500,000*l.* a year, and that this is a rapidly increasing charge, to which has further to be added, the cost of the establishment at Bermuda, and of the hulks at home, in estimating the whole expense of the present most defective system of secondary punishment.

Were it not for the convict establishments, New South Wales and Van Diemen's Land ought to pay the greater part at least of their own expenses; and were they to do so, the annual charge of maintaining w

managed penitentiaries, even upon a most expensive scale, including in that charge the interest of the money spent in their first establishment, could hardly equal the present expenditure.

Until penitentiaries can be built, it would be necessary to send abroad a considerable portion of the convicts; but Your Committee are of opinion that, at the earliest possible period, it would be expedient to discontinue sending them to New South Wales, or to the settled districts of Van Diemen's Land; for, if the system of assignment is to be abandoned (which it ought to be at once), there is no situation in which so much difficulty would arise, in carrying well into effect the punishment of penal labour, without the assistance of adequate penitentiaries, as in these colonies. The character of the population, by which offenders under punishment would be surrounded, and with which it would be impossible to cut off their communication, would be a source of the greatest inconvenience; and the high value of labour, especially of skilled labour, in these colonies, would have the double effect of rendering it impossible to secure the services of trustworthy superintendents, unless by extravagant remuneration, and of affording to prisoners the means of corrupting the subordinate officers, in whose charge they are placed, by giving to those officers a share of the money they can earn, when their absence from their gangs is connived at.

The sentence of penal labour abroad should, therefore, be carried into effect in some other situation; probably, in the first instance, the most convenient one which could be chosen for convicts under short sentences would be Bermuda, from the circumstance that a penal establishment already exists there, and that labour could be advantageously applied upon fortifications and other works which are still required. Your Committee, however, are of opinion that Bermuda ought not to be selected as a place in which a permanent penal establishment should be formed. The soil of these islands is not sufficiently productive to render it possible to make the convicts maintain themselves by their own labour (an object of considerable importance in fixing the situation of a permanent penitentiary); and the strong objection which the inhabitants of the colony are understood to entertain to such an establishment being formed there, seems to be too well founded to be disregarded.

Convicts sentenced for long periods might be sent to the present penal establishments of Tasman's Peninsula and Norfolk Island, provided the system of punishment now pursued there were completely altered. The extreme distance from this country is

indeed an inconvenience with respect to both these settlements, and the former is perhaps somewhat too near the settled part of Van Diemen's Land. But, in the opinion of Your Committee, they present some considerable advantages; they are already used as penal settlements; they have been ascertained to possess remarkably healthy climates; they have no population to interfere with the employment of the convicts without the walls of the penitentiaries; they present great facilities for making the labour of the convicts productive, and they would be easily available for the punishment of crimes committed in New South Wales and Van Diemen's Land.

Should Norfolk Island and Tasman's Peninsula be selected as places for permanent penal establishments, there would be no difficulty in providing, upon very short notice, such temporary accommodation as would suffice for the reception of as many convicts as it would be necessary to send there in order entirely to discontinue Transportation, according to the existing system, to New South Wales and Van Diemen's Land. The convicts already in these settlements could be employed in making temporary buildings which, in the first instance, need only afford a shelter from the weather, as the situation of these settlements in itself affords a sufficient security against escape. As additional prisoners arrived, additional accommodation would be in like manner provided, and as soon as possible permanent buildings should be erected, suitable both for the silent and for the separate systems of penitentiary discipline. The latter system might be used chiefly for the purpose of additional punishment; as, in a settlement having no free inhabitants, and affording no possibility of escape, the former would not be open to the objections to which it is in general liable, since employment might be given to the prisoners out of their sleeping cells, in cultivating the ground, in felling timber, &c., in such a manner as to render communication with each other almost as completely impossible as under the separate system. Nor would it be necessary to wait until proper penitentiaries should be built, in order to commence the attempt to get rid of the hardening and demoralizing effects of the ordinary modes of subjecting prisoners, whom there are no means of separating from each other, to penal labour. The mode of governing them lately suggested by Captain Maconochie might in part at least be attempted with advantage. Your Committee are not prepared to recommend the adoption of that part of his plan which relates to the division of convicts into small parties, responsible for each other's conduct (though even against this

they would not be understood to pronounce an absolute and unqualified condemnation), but they are decidedly of opinion that it would be advisable to ascertain, by experiment, the effect of establishing a system of reward and punishment, not founded merely upon the prospect of immediate pain or immediate gratification, but relying mainly upon the effect to be produced by the hope of obtaining, or the fear of losing, future and distant advantages. At present order and discipline are maintained, and labour is enforced amongst the convicts, whether in the hulks at home, or in the penal gangs and penal settlements abroad, almost exclusively by the dread of summary corporal punishment, or of the loss of immediate animal indulgences, by the withholding from the convict who misconducts himself some part of the food or tobacco which he would otherwise be permitted to enjoy. In the earlier part of this Report it has been shown to what a frightful degree of severity it has been found necessary to resort in order to render this system of coercion effectual in the penal settlements; and it is obvious that in all cases its tendency must be to strengthen and confirm the habit of acting under the influence of a desire for gratifications, or a dread of sufferings, which are immediate and physical. Now it is precisely this habit, and that of disregarding the distant consequences of their actions, which chiefly lead men into the commission of crimes; the great object, therefore, of a good system for the government of convicts should be that of teaching them to look forward to the future and remote effects of their own conduct, and to be guided in their actions by their reason, instead of merely by their animal instincts and desires. With this view it is suggested that the performance of penal labour by convicts should be stimulated, not by the fear of the lash in case of idleness, or by any pecuniary allowance which may be expended in the purchase of tobacco or other luxuries, but by opening an account with each man, giving him credit for every day's labour, to be estimated by a greater or a smaller number of marks, according as he had been more or less industrious, with an assurance that as soon as he should have earned a certain number of marks, he should be recommended for the remission of the remainder of his sentence. As marks would be obtained by industry and obedience, so they should be forfeited by idleness, insubordination, or any infringement of established rules. Instead of the summary infliction of the lash, or the loss of indulgences in food or otherwise, convicts should incur by offences of this description the forfeiture of a number of marks, proportioned to the gravity of the case, according to a scale to

be framed for the purpose; nor should corporal punishment be resorted to, except for the purpose of repressing open resistance to authority. The whole number of marks each convict should be required to earn, in order to obtain his pardon, should be so fixed, with reference to the number to be allowed for a good day's labour, as to enable him, by industry and good conduct, to obtain his pardon at the expiration of about half the period for which he had been sentenced. The principle of remitting a large part of the original sentence of the criminal in consideration of his good conduct under punishment, is one already recognised in practice. It is usual to recommend the convict sentenced to seven years' Transportation, who has been sent to the hulks or penitentiary, for pardon, when he has been so confined from three to four years, provided his conduct has been such as is considered to give him a claim to this indulgence. In the same manner the convict who is transported obtains a ticket of leave at the expiration of a definite time, determined by the length of his original sentence. But unfortunately the influence which the prospect of obtaining these advantages is calculated to exercise upon the convict is not, according to the existing practice, brought to bear with effect upon his mind. Nothing but the grossest misconduct prevents him from obtaining the advantage he hopes for; and the recommendation to the Secretary of State, or the Governor of the colony, upon which it is granted, is founded only upon a vague impression upon the mind of the person under whose charge he is immediately placed as to what has been his general behaviour during the whole period of his punishment.

By adopting the plan which has just been described, that which has hitherto been uncertain and arbitrary will be rendered systematic and definite, and a powerful means of influencing the mind of the convict will be brought to bear upon his daily conduct. The adoption of this mode of governing convicts seems, therefore, to be well calculated to promote their moral improvement, and it is also likely to diminish considerably the burthen of their maintenance, by rendering their labour far more productive than it has hitherto been; at the same time Your Committee wish to recommend it not as a substitute for the more perfect system which may be followed in well-constructed penitentiaries, but as an experiment which appears to them well worthy of being tried, in the hope of mitigating the evils which it is to be feared must unavoidably result from the associating together of offenders, until such buildings can be provided.

In order to give this experiment a fair

chance of success, much more ample provision for religious and moral instruction should likewise be made than has been possible for convicts scattered over the extensive surface of New South Wales and Van Diemen's Land. Your Committee do not deem it necessary to enter into any further details as to the mode of conducting such establishments, as their object is only to express, in a general manner, their views as to what description of punishment ought to be substituted for Transportation as now conducted.

With regard to the duration of punishment in penitentiaries, Your Committee are of opinion that no offender of any description should be sent to penitentiaries for life, as such a punishment destroys all hope, and renders the culprit reckless; they recommend that the severest sentence should not exceed 15 years; on the other hand, as a substitute for the lowest sentence of Transportation, that for seven years, they would not venture to recommend a shorter period of punishment, in a penitentiary, than that of two years.

One of the useful ends which Transportation may have been supposed to promote was, that of enabling offenders who had undergone punishment to commence a new career, in a new community, in which their previous offences would not preclude them from obtaining employment. In this country there is so great a competition for employment in every walk of life, and in every branch of industry, that the person who has once been convicted of an offence against the laws, and who has suffered the punishment he has thus incurred, finds it almost impossible, however anxious he may be to maintain himself by honest means, to get the opportunity of doing so; owing to the stain upon his character, some other candidate is sure to obtain, in preference to him, whatever employment he may apply for. Hence, even if the punishment he has undergone has produced an impression upon his mind, and he wishes to avoid exposing himself to its repetition, he is still almost unavoidably driven back into evil courses, from the want of any other means of maintaining himself. In many of the British colonies, on the contrary, the demand for labour of all kinds is so great, that every man who has the power and the inclination to labour, can find almost any description of employment for which he is qualified, no matter what may have been his previous character.

It was an important question for the consideration of Your Committee, whether this most desirable object, of enabling a criminal after the expiration of his punishment to commence a new career, might not be obtained without entailing upon the

colonies the social evils which have been occasioned by Transportation; and the mode in which it might be obtained appears to Your Committee to be well described in the following extract from a letter of the Archbishop of Dublin:—

“ Under a reformed system of secondary punishment (supposing Transportation abolished), it strikes me as desirable, with a view to the preservation from a return to evil courses of persons released from penitentiaries, &c. after the expiration of their punishment, that such as may have evinced a disposition to reform should be, at their own desire, furnished with means of emigrating to various colonies, British or foreign, in which they may mix, not with such men as their old associates in crime, but with respectable persons, unacquainted with their past history, and may thus be enabled, as the phrase is, ‘to turn over a new leaf.’ This of course implies that they should not emigrate in a body to any one place, and as a distinct class. For juvenile offenders, the same course would perhaps be even still more suitable.”

Without entering into any further details, Your Committee will now conclude their Report with the following Resolutions, to which they have agreed, and which contain their general views as to the description of punishment which they recommend to be substituted for Transportation:—

1. That Transportation to New South Wales, and to the settled districts of Van Diemen's Land, should be discontinued as soon as practicable.

2. That crimes now punishable by Transportation should in future be punished by confinement with hard labour, at home or abroad, for periods varying from two to fifteen years.

3. That for the purpose of effectually maintaining discipline and subordination among the convicts sentenced to confinement abroad, of promoting the legitimate ends for which punishment is inflicted, and also of preventing a recurrence of those social evils which have been found by experience to result from Transportation as hitherto conducted, the penitentiaries or houses of confinement that may be established abroad, shall (so far as possible) be strictly limited to those places wherein there are at present no free settlers, and wherein effectual security can be taken against the future resort of such settlers.

4. That rules should be established by which the existing practice of abridging the periods of punishment of convicts in consequence of their good conduct, may be brought under stricter regulation, and rendered less vague and arbitrary.

5. That on account of the difficulty

which a convict finds in this country in procuring the means of honest livelihood after the expiration of his sentence, and on account of the temptations to which he is thereby exposed, it would be advantageous to establish a plan by which a convict might receive encouragement to leave the country with the prospect of supporting himself by regular industry, and ultimately regaining the place in society which he had forfeited by crime. That if such encouragement were limited to convicts who should have conducted themselves uniformly well during their confinement, it

might at the same time operate as an encouragement to good behaviour during confinement, and might considerably diminish the prejudice which must to a certain degree attach to any person known to have been convicted of a serious offence.

6. That the convicts who have been punished abroad should be compelled to leave the settlement in which they have been punished within a limited period after the expiration of their sentences, and that means should be afforded them by the Government for this purpose.

August 3, 1838.

EXTRACT from a LETTER from the Archbishop of DUBLIN to the Rev. H. BISHOP, on the Evidence taken before the TRANSPORTATION COMMITTEE, containing his Grace's Opinions on the Efficacy of the Punishment of Transportation.

Dublin, March 2, 1838.

THE perusal of the evidence given before the Transportation Committee has tended, as well as all that I have collected on the subject from other quarters, to confirm the conviction and strengthen the feelings expressed in my letters to Earl Grey, published some years ago. The statements and descriptions I then brought forward, and which some persons were disposed hastily to conclude must be exaggerated, have been not only fully borne out by subsequent inquiry, but have been proved to fall far short of the reality.

I have no additional facts however to state, but those, or such as those, which have been already given before the Committee, or are contained in published works. I may perhaps except one letter which I received, not long since, from a gentleman (whose testimony is to be relied on) settled at Swan River, and of which I subjoin an extract.

The whole system of penal colonies, a system which (as was remarked in an ingenious pamphlet on 'National Property,' &c.) was "commenced in defiance of all reason, and persevered in, in defiance of all experience," is at length attracting some portion of that public attention which ought to have been bestowed on it long since; and in proportion as it is inquired into, the enormous absurdity and mischief of it is more and more perceived.

The objects proposed being, 1st, The prevention of crime, by inspiring terror; 2nd, The reformation of criminals; and 3rd, The benefit of the colony, I pointed out (what has since been more and more strongly confirmed) that we might have anticipated from reason, and also might have learned from experience, the total failure, and more than failure, in all three.

In deterring offenders, it has not only proved less efficacious than most other modes of punishment, but has often appeared, on the contrary, to encourage and incite them. Again, instead of reforming offenders, it has not only most enormously increased their depravity, but has been the means of widely spreading the contamination of their vices among those who might otherwise have been worthy members of society. And, lastly, as far as the benefit to the colonies is concerned, it has to so vast an amount inflicted on them the greatest evil that one set of men can inflict on another,—a deep-seated taint of demoralization,—that even those who are inclined to support the system from its supposed advantage to the mother country, are compelled to admit (p. 313, Evidence) that this advantage must be purchased at the expense of "the most polluting consequences," "the most complete demoralization" in the colony. On the other hand, those better acquainted with the effects of the system on the mother country, with the utter inexpediency of Transportation as

secondary punishment; these are found sometimes recommending the continuance of the system, or its continuance for a time, with a view to the welfare of the colony.—(See Evidence, p. 81, No. 1264—1268.)

But besides failing altogether of all the objects proposed, and producing on the contrary a most terrific amount of the opposite effects, many incidental evils have resulted from the system; evils which are almost entirely thrown into the shade by the far greater immediate mischief, more directly affecting the British Empire, but which might of themselves be regarded as constituting a ground of very serious objection.

For instance, the amount of misery produced to the Aborigines, not only of New Holland, but also of New Zealand, and a large portion of Polynesia, may, for the most part, be traced, directly or indirectly, to the influence of our penal colonies.

The extirpation of a great proportion of these Aborigines, under every aggravating circumstance of cruelty and injustice, is by no means the worst item in the shocking catalogue. Disease, degradation, and profligacy have been widely spread through all those regions, in proportion as they have been visited by stragglers from this (as it may be fitly designated) metropolis of wickedness; and the moral contagion is every year diffusing itself more widely through each hemisphere.

It is the less necessary, however, to dwell on these considerations, because it can hardly be expected that any evils affecting strangers could be much regarded by any one who should be either blind or indifferent to those affecting his fellow-subjects.

With regard to the details of the system, and the enormous, systematic, and complicated abuses that have come to light in the working of the various departments of it, I have always, in the course of my inquiries, guarded against laying too much stress on these; not from considering that it is no objection to a system to be (as in the present case) peculiarly liable to abuses, but because every proposed plan for remedying or preventing, or mitigating this or that incidental evil, goes so far towards satisfying the public mind, and cherishing false hopes that the system itself—a system which is intrinsically and radically bad—can be made to work well. The assignment of convicts to their wives or other friends, in whose names they are enabled to carry on profitable business; the employment of such persons as constables, and the extensive system of bribery and connivance at crime thus introduced; the entrusting to such characters the education of youth, and other important and responsible offices; the assignment or marriage

of female convicts to persons who seek them for the purpose of carrying on a disgusting traffic; these, and innumerable other abuses, are such as it is at least conceivable might admit of remedy or of mitigation, if no amount of expenditure or of laborious and vigilant superintendence were spared that could possibly conduce to such an end. But if every abuse were prevented to the greatest degree that is possible, or in a degree that I should deem morally impossible, still the evil of the system itself, which is radical and incurable, is incomparably greater than any that result from its abuses.

That, as a punishment, and in respect of the deterring of offenders, Transportation combines, and ever must combine, the highest degree of every one of the various disadvantages of all conceivable modes of secondary punishment, I took occasion to point out in my letters to Earl Grey, on the showing of the very advocates of the system.

1. The prosperity of the colony and the repression of crime in the mother country are (as I there pointed out) two objects essentially interfering with each other, so that every effort to further the one has always tended, and always must tend, to defeat the other; and moreover, the latter, the primary and more important object, is (as I also showed) the more likely to be sacrificed to the other.

2. Every well-contrived system of punishment will produce more terror than pain, and more pain than permanent mischief (such as the degrading, hardening, and corrupting of the offenders, and of others). A judicious legislator seeks to inflict the least possible amount of pain that is necessary for wholesome terror, and he is even far more tender of doing mischief than of giving pain. Our present system, on the contrary, causes much more pain than terror, and incomparably more mischief than pain. Those who are thriving in the colony beyond what they could have ever hoped from honest industry at home, and those, again, who are suffering severely, the drawers of prizes and the drawers of blanks in this strange lottery (and that both are to be found is established by irrefragable evidence), as they seem to be both injured by the increased depravation of character, so both are found to concur in tempting their friends at home, by the most alluring descriptions, to come out and join them. It is in human nature, it seems, to seek for companions and partakers, whether of misery or of prosperity; and the remoteness of the settlement must always involve in uncertainty what is really going on there, except to such as are provided with means of carrying on an official inquiry; and, even to a special committee, the ascertainment

of the truth requires time and watchful assiduity.

Then, as a plan for reformation of offenders, the system is (not from any casual abuses merely, but from its essential character) not only entirely unfit to effect that object, but as completely calculated for augmenting and diffusing corruption as if it had been devised with fiendish ingenuity and malignity for that express purpose.

I pointed out in my publications on the subject the corrupting effect necessarily produced by crowding together multitudes of various classes of delinquents during the idleness of a long voyage; appealing, among other confirmative testimony, to Mr Cunningham, the transport surgeon, an advocate for the system; this is followed up by a life in the colony; a community in which vice is the rule and virtue the exception; where every kind of villain and profligate finds himself kept in countenance by the majority, and where there is a free interchange of every kind of vicious instruction and example. As in universities, and other scientific and literary institutions, each imparts a taste for, and a knowledge of, his own particular department of study; so, in this university of wickedness (as it may be called), the ruffian is trained to be a thief, and the thief to be a ruffian; and both impart their respective accomplishments to profligates, who in return initiate them in the foulest debauchery: everything may be learned, and everything encouraged, except virtue and decency.

This every one acquainted with human nature must perceive to be an evil inherent in the system itself, in the forming of a community of such materials, that the whole standard of right and wrong must needs be depraved.

Complaints have been made by some persons of the want of any adequate provision, from the beginning, of moral and religious instruction. The present Bishop of New South Wales, among others, laments this: and yet, in a reply published to my first letter to Earl Grey, he censures me strongly for my remarks on the existing state of ignorant and brutal profligacy, on the ground, not that my representation is not correct, for he fully admits it, but that a change for the better would be produced, if proper provision were made for giving religious instruction.

It would be thought strange if an Arabian, on hearing this country described as consisting chiefly of parched and barren wastes, should be indignant at such an imputation, alleging that these deserts would be fertile if they were well-watered.

But in truth, I do not believe that any watering of such a moral waste as a penal colony would be to any purpose. The

neglect, indeed, of making any adequate provision for the instruction of the convicts (sent out on purpose to be reformed) indicates as much negligence in the execution, as there was rashness in the conception of the scheme; but he must be strangely ignorant of human nature who can expect that persons spending more than six parts in seven of their time in unrestrained intercourse with all the most worthless, and avowedly and notoriously criminal of the species, can be reformed, or can be withheld from continually increasing corruption, by a few pearls occasionally thrown down into the mud before a herd of swine.

From time to time respectable free settlers have been enticed to emigrate to the penal colonies, and, in particular, to remedy some of the shocking effects resulting from the disproportion of the sexes, ship-loads of young women, with certificates of good character, have been sent out, with the view to purify the character of the colonial community. To pour, from time to time, portions of sound wine into a cask full of vinegar, in hopes of converting the vinegar back into wine, would have been as rational and as successful a scheme. The result has been, as might have been expected, that the new-comers, instead of disinfecting this moral lazar-house, for the most part become as deeply infected as the rest.

And here I would observe, that the plan which some have suggested of first punishing criminals at home, and then sending them out to these colonies to be reformed, is one which would retain in full force the worst part of the whole system. The deficiency of terror operating on offenders, would indeed be in some degree remedied; but the evil of a corrupt community, a state of society that incurably hardens offenders, and facilitates the contagion of vice among their neighbours, and its transmission to their offspring, this would be kept up; and by being kept up would be increased every year as the colony spreads.

And I the more deprecate the introduction of any such partial remedies, because they serve to skin over the surface of the foul ulcer which is corroding the vitals, and thus to turn aside public attention from the only effectual cure. All men seem now convinced that something must be done to amend our system of secondary punishments. And if that something be the infliction of some real punishment at home, before the convicts are sent out to be herded together in such a school of depravity as New South Wales, the public mind will be perhaps lulled into another fifty years' fit of apathetic acquiescence; unless indeed we are earlier roused from it by a general crusade of the civilized world, to which we (the only nation who are now pursuing

such a course) shall have become an object of mingled execration and contempt.

The scheme I have alluded to, that of keeping up the penal colonies with the superaddition of previous punishment at home, is one which would perhaps have hardly attracted any favourable notice, but for the prevalence of a certain vague, indistinct aspiration after so desirable an object as the getting rid of criminals. If this were proposed to be effected by fixing them permanently in some region beyond the British dominions, the scheme, however unjust and inhuman, would at least have some show of expediency. But when (as I pointed out in the Letters to Earl Grey) there is merely a transfer from one part of the empire to another—a burden laid on an infant community, which it is especially ill qualified to bear—and when relays of the sound part of our countrymen are from time to time sent out to mix with the fermenting mass of corruption, and when, to crown all, a continual back stream is flowing into this country of the convicts we had got rid of for a time, returning far worse than they went out, and fully qualified to corrupt others—when all this, I say, is considered, the notion of thus getting rid of offenders seems even more absurd than it is unjustifiable.

The only rational course is to abolish the whole system completely, and to abolish it speedily. The mischief is spreading yearly, and daily, even while we are deliberating; for each ship-load that goes out, whether of free settlers or of convicts, is a ship-load of fresh sacrifices. It is an error, very obvious when pointed out, but which men continually fall into from inadvertency, to forget that when some system, or course of events remains unchanged, the effects may be continually arising in fresh and fresh succession. The river is called the same, and we are apt to forget that the water is perpetually renewed. While the cholera or any other pestilence is raging without intermission, it carries off daily fresh victims.

Let any one compute the number of convicts that have been transported, even during the 5½ years since the publication of my first Letter to Earl Grey; let him next look to the evidence given as to the state of society on board the transport ships and in the colony; let him also compute the number of free settlers, including many (once) virtuous young women, who have within that period been sent out to this sink of depravity; and then let him calculate the total amount of evil—of fresh evil—that has been done to the British empire and to the human race, even during those few years; and I think the result would be, that no man of common sense and common humanity would like to be

responsible for the continuance of the system for a single day. If any new measure were in contemplation, which afforded grounds even for the apprehension that it might produce an amount of evil equal to what has taken place, even during the last year, from the continuance of the penal colonies, all men would be alarmed. But because the system is not new, they look with comparative apathy on the perpetually fresh stream of mischief that flows down the same channel. But are we justified in continuing what we feel it would be unjustifiable to commence?

The above is probably one cause why, till of late, so little attention has been bestowed on a subject of such vast importance.

And when men are not in a very inquiring state of mind, the very enormity of any evil sometimes leads them (as I remarked in one of my published Letters) to take for granted that the representation of it must be exaggerated. The whole system of our penal colonies, especially when viewed as a system carried on by an enlightened and civilized country, under successive administrations for half a century, is certainly a prodigious paradox. Such facts as have been now established in evidence, men might be excused for refusing to credit without investigation. And then the investigation was not only troublesome, but so painful and revolting—the details were not only so horrible, but so nauseous and disgusting and unutterably indecent—so unredeemed by the excitement of any of those sublimer feelings which make men listen with avidity even to the horrors of war—that they turned aside and shut their eyes, with a vague hope that things were not so bad as had been represented. And thus the very enormity and loathsomeness of the evil helped to perpetuate it; as that noxious kind of vermin, the American polecat, called the skunk, is said to escape from its pursuers by its intolerably fetid odour.

I might add to the many other proofs that might be offered of the prevailing inattention to the subject and ignorance respecting it, that I have known wonder expressed respecting myself, that I should interest myself in a political question quite alien from my profession. I need not observe, that no man of sound mind could make such an observation after having perused any twenty pages of the Evidence. A Christian mission among the heathen would have a just claim to support if it should hold out but a fair prospect of effecting as much good in a century as our Transportation system does of evil every year. No one, therefore, could deliberately maintain that a Christian minister ought, as such, to regard with indifference what may be called (in analogy to a well-known

institution in England) a "Society for promoting the knowledge and practice of [everything opposite to] the Christian religion."

The important question, what mode or modes of secondary punishment should be adopted, is one which (as is suggested in my first letter to Earl Grey) calls for the appointment of a special commission, to make the requisite inquiries, and to bestow mature reflection on the several plans proposed. But I have always deprecated the mixing up of this question with that concerning the Transportation system. Objections, not only plausible, but having some real weight, may be urged against any and every plan that can be proposed; and if we are to go on with a leisurely discussion of these till some plan shall be suggested that is open to no objections at all, and in the meantime are to persevere in our present course, we shall be, in fact, resolving to persevere in it for ever. Convinced, as I have been long since, and as I conceive all men of sense must now be who have taken the pains to peruse the Evidence, that any change must be for the better, to continue the penal colonies till we have ascertained the least objectionable substitute; to remain under the worst system of all till we are certain what system is best, would be as preposterous as to remain in Sodom or Gomorrah, amidst the volcanic eruption, till we had fixed on the most eligible site for a permanent abode. Let the commission be directed to determine as speedily as may be, not whether this national folly and national sin shall be longer persevered in, but what immediate change shall be resorted to, as the first experiment, and then, let them further inquire into the merits of the various systems that have been tried in this or in other countries, and what modifications of any of them may be deemed advisable.

Under a reformed system of secondary punishment (supposing Transportation abolished) it strikes me as desirable, with a view to the preservation from a return to evil courses of persons released from penitentiaries, &c., after the expiry of their punishment, that such as may have indicated a disposition to reform, should be, at their own desire, furnished with means of emigrating to various colonies, British or foreign, in which they may mix, not with such men as their old associates in crime, but with respectable persons, unacquainted with their past history, and may thus be enabled, as the phrase is, to "turn over a new leaf." This, of course, implies that they should not emigrate in a body to any one place, and as a distinct class. For juvenile offenders the same course would,

perhaps, be even still more suitable. The colonies which should be specially excluded, should be (at least for fifty years to come) New South Wales and Van Diemen's Land; evidently the most unfit places in the world for a half-reclaimed offender. We have surely made trial long enough of that system of moral homeopathy, which seeks to cure a man of vice by putting him in the way of acquiring fresh vice. Surely a physician would be reckoned insane who should send a patient convalescent from ague, and in danger of relapse, into the Lincolnshire fens for the complete re-establishment of his health.

I am well aware that many inconveniences must, in this, as in every change, be encountered; and that opposition must be looked for from those whose private interests are in various ways involved. But the present is a case in which nothing of this kind should operate with persons of even ordinary integrity and public spirit, or even of humanity or common decency.

As to the questions respecting the colonies, I feel great hesitation in giving an opinion; not from feeling any doubt as to what is the soundest policy, but from doubts as to the degree in which motives of local and temporary expediency may interfere with the dictates of that policy.

The Essay on the 'Improvement of our System of Colonization,' by my friend Dr Hinds, appended to my first letter to Earl Grey, lays down the principles to which I think we should endeavour to conform our practice as nearly as the degree of enlightenment and public spirit that may exist in the nation will permit.

The convicts now in the colony, whose sentences are now unexpired, should be at once removed at least from immediate contact with the free settlers. They might be employed, in spots where there is as yet no settlement, but which are likely to afford advantages to settlers, in clearing, in draining swamps, in constructing roads, bridges, &c., and thus acting as pioneers. And when their terms are expired, they should (either all or such of them at least as may have been well conducted) be perhaps offered a free passage home. This seems as much an act of justice to the individuals as of benefit to the colony. Among the many circumstances which constitute that inequality in the punishment of Transportation which is to be added to the catalogue of its other disadvantages, one is, the wide difference it makes between the richer and the poorer convict. To one who has property (usually the fruit of his crime) the punishment comes to an end as soon as his term is expired; because he can pay his passage home. To the poorer, but not

more guilty convict, a sentence of Transportation for seven years is a sentence of exile for life.

To what degree, and in what manner, it would be right to encourage free emigration, after Transportation shall have been abolished, I will not presume to decide. I fear no course can be adopted that will not be open to many objections. For one of the worst evils attendant on the introduction of any very unwise system, is, that it is impossible to retrace our steps without encountering great difficulties and many fresh evils. Only, let it not be forgotten,

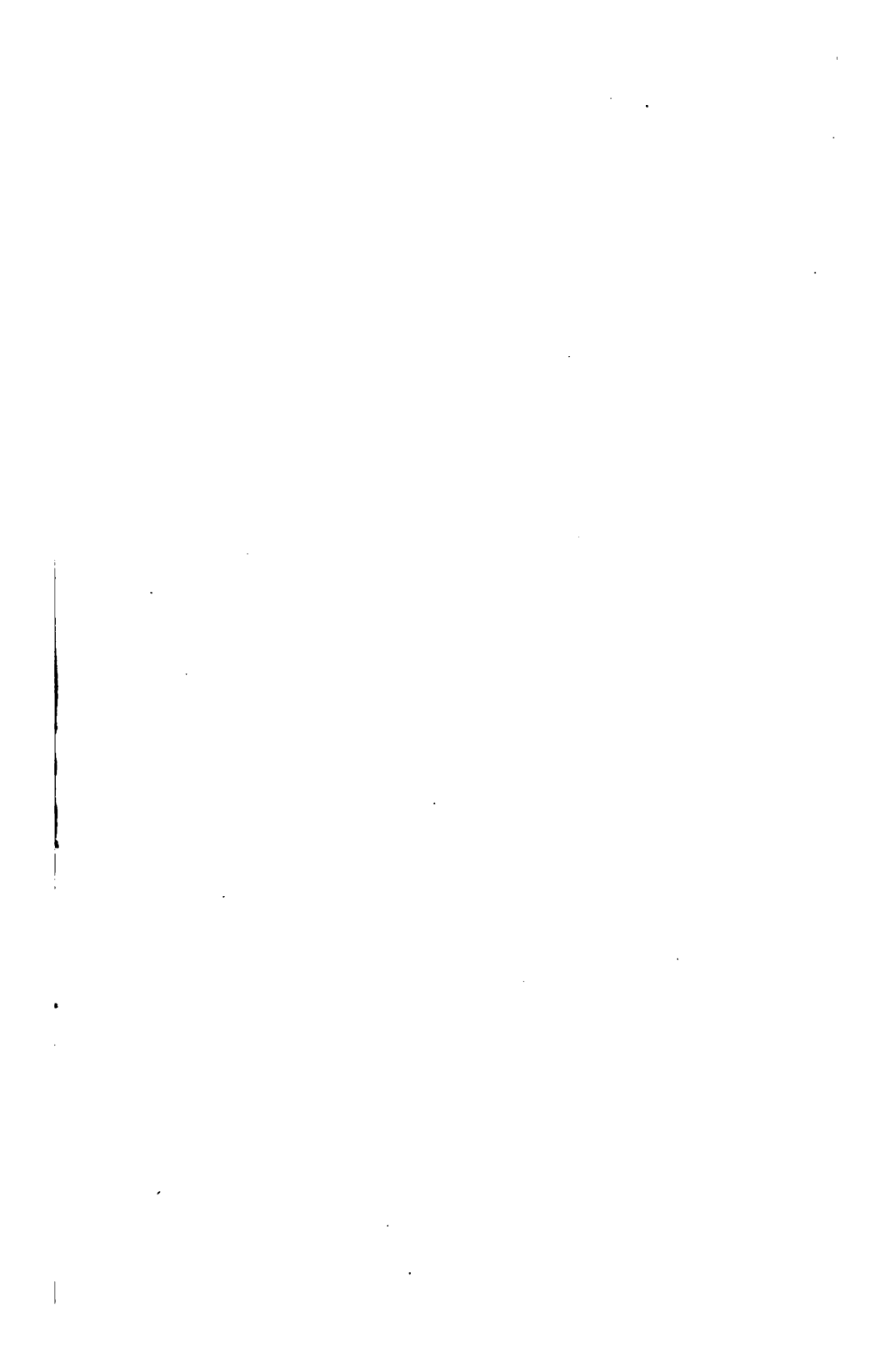
that the longer we persevere in a wrong course, the greater do these difficulties and evils become. It would be childish to expect that all the consequences of a half-century of error can be swept away at once by an Act of Parliament. But if, after several years of prudent and vigilant exertion, we still find ourselves struggling against some remains of those consequences, we should console ourselves with the reflection that this is to be attributed not to our having at length made the change, but to our having deferred it too long.

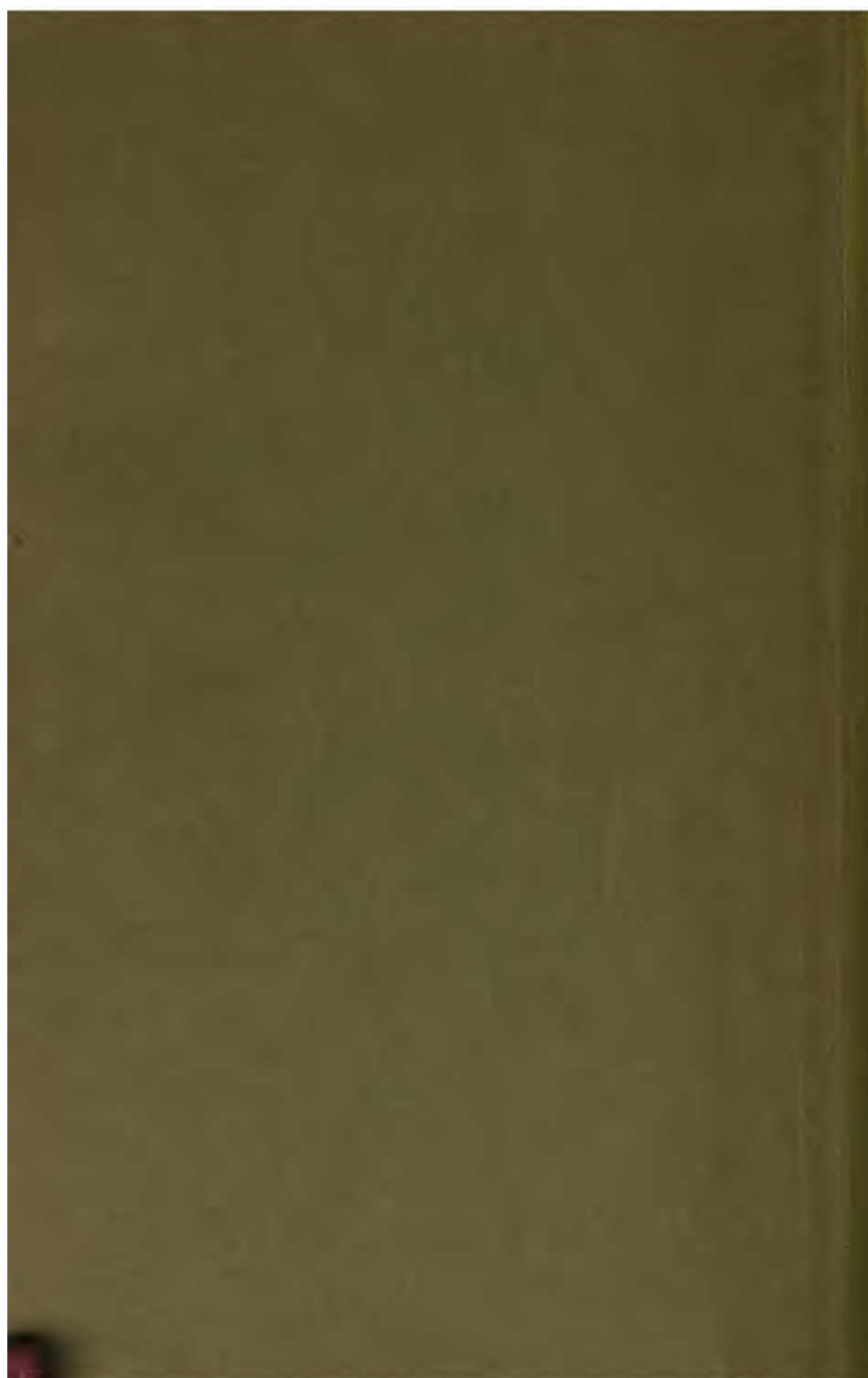
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